



CAPE COD COMMISSION

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E-mail: frontdesk@capecodcommission.org

Date: June 21, 2001
To: Michael D. Ford, Esq.
P.O. Box 665
West Harwich, MA 02671
From: Cape Cod Commission
Re: Development of Regional Impact
Cape Cod Commission Act, Sections 12 and 13
Applicant: The Stop & Shop Supermarket Company and Cape Cotuit Center, LLC
c/o Atlantic Retail Properties
71 2nd Avenue
Waltham, MA 02154
Project #: JR99013
Project: Cotuit Landing Redevelopment and Expansion
Route 28, Falmouth Road, Barnstable, Massachusetts
Book/Page: Parcel 2, 3, and 4: Cape Cotuit Center, LLC
Book 10805, Page 177
Parcel 6: Cape Cotuit Center, LLC
Lot 12-B on Plan Book 475, Page 4
Book 10805, Page 177
Certificate #: Parcels 1, 5, and 7: Cape Cotuit Center, LLC
L.C. 22824-J, Lots 112, 114 and 115
Certificate of Title 144821
Parcel 8: EDT Cotuit, LLC
Book 13230, Page 58 and
Book 12107, Page 258 and
Book 10805, Page 177

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby **approves with conditions** the application of The Stop & Shop Supermarket Company and Cape Cotuit Center, LLC as a Development of Regional Impact (DRI) pursuant to Sections 12 and 13 of the Cape Cod Commission Act (Act), c. 716 of the Acts of 1989, as amended, for the

Cotuit Landing Redevelopment and Expansion Decision (#JR99013)

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proposed Cotuit Landing Redevelopment and Expansion project. The decision is rendered pursuant to a vote of the Commission on June 21, 2001.

PROJECT DESCRIPTION

The applicant proposes to redevelop and expand the existing Cotuit Landing Shopping Center on Route 28 in Marstons Mills. The development plans indicate that the proposed plaza would consist of 125,584 sf of retail space and include:

- 49,032 sf of existing retail space
- a new 71,552 sf Stop & Shop supermarket (including retail space, loading docks, and mezzanine space).
- two separate new retail buildings of 2,500 sf each.

The applicant is proposing to construct 340 new parking spaces and to reconstruct 300 parking spaces for a total of 640 spaces to serve both new and renovated space.

Calculations in the FEIR indicate that the applicant controls approximately 47.3 acres, including the project site (Lots 1-7) as well as a recently acquired 6.25 acre parcel (Lot 8). According to the FEIR, impervious surface created by buildings and parking lots will occupy approximately 11.25 acres. The applicant is offering 26.88 acres of permanently protected open space or landscaped area.

The proposed project is located in a Certified Growth Center according to the Barnstable Local Comprehensive Plan. Although it is not located within an historic district and is not adjacent to individual historic structures, the project is located at the intersection with Putnam Avenue, a Barnstable LCP designated Scenic Road.

JURISDICTION

The proposed Cotuit Landing Redevelopment and Expansion project qualifies as a DRI under Section 12(i) of the Cape Cod Commission Act which states: "any proposed development project for which the Secretary of Environmental Affairs requires the preparation of an Environmental Impact Report (EIR) in accordance with the provisions of Sections 61 – 62H, inclusive, of M.G.L. Chap. 30 shall be deemed a Development of Regional Impact." The project is categorically included for the preparation of an EIR due to anticipated trip generation in excess of 3000 vehicles per day. The project also qualifies as a DRI under Section 3(e) of the DRI Enabling Regulations as "any proposed...retail...addition...with a gross floor area greater than 10,000 s.f."

PROCEDURAL HISTORY

On April 30, 1999, the applicant submitted an Environmental Notification Form (ENF) for the Cotuit Landing Redevelopment and Expansion project to the Massachusetts Executive Office of Environmental Affairs (MEPA). On May 6, 1999, the applicant submitted the ENF for the project to the Cape Cod Commission. The ENF was noticed in the Environmental Monitor of the Massachusetts Executive

Office of Environmental Affairs, MEPA Unit (MEPA) on May 8, 1999. The MEPA comment period was extended at the request of the applicant until June 24, 1999. Pursuant to a Memorandum of Understanding between the Cape Cod Commission and the Executive Office of Environmental Affairs, the applicant elected to participate in a joint Cape Cod Commission/MEPA review process designed to address the concerns of both agencies and to expedite project review. On June 16, 1999, the applicant filed a supplemental DRI application with the Cape Cod Commission.

A duly noticed site visit and public hearing was conducted pursuant to Section 5 of the Act by an authorized Subcommittee of the Commission on June 16, 1999 at Barnstable Town Hall to recommend the scope of the joint review. The public hearing was closed and the record was left open for the submission of written materials. Immediately following the hearing, the Subcommittee held a meeting to discuss the scope of the joint review.

The DEIR was noticed in the Environmental Monitor on October 23, 1999. A duly noticed public hearing was conducted by an authorized Subcommittee of the Commission on November 16, 1999 at Barnstable Middle School at Marstons Mills, MA to receive public comments on the Draft Environmental Impact Report (DEIR). The public hearing was closed and the record was left open for the submission of written materials.

The Subcommittee met to consider the Commission comment letter to MEPA on the DEIR at a public meeting on November 19, 1999 in Rooms 11 and 12 in the Superior Courthouse.

The FEIR was noticed in the Environmental Monitor on December 9, 2000. A duly noticed public hearing was conducted by an authorized Subcommittee of the Commission on January 3, 2001 at Barnstable Middle School at Marstons Mills, MA to receive public comments on the Final Environmental Impact Report (FEIR). The public hearing was closed and the record was left open for the submission of written materials.

The Subcommittee met to consider the Commission comment letter to MEPA on the FEIR at a public meeting on January 4, 2001 at the Cape Cod Commission offices in Barnstable, MA.

On January 16, 2001 MEPA issued a final certificate stating that the FEIR adequately addressed all state highway traffic issues related to the project and that the proposed traffic mitigation is adequate. The project began review as a Cape Cod Commission Development of Regional Impact (DRI).

The Cape Cod Commission opened and closed a pro-forma public hearing on February 28, 2001. A substantive public hearing was conducted on March 15, 2001 to receive public testimony to assist the Cape Cod Commission in their review of the project. The public hearing was closed and the record was left open for the submission of written materials.

The Subcommittee held public meetings after the close of the public hearing to deliberate on the project on March 27, 2001, April 26, 2001, May 11, 2001 and June 14, 2001. At the April 26, 2001 meeting, the Subcommittee voted unanimously to recommend to the full Commission that the project be approved as a DRI, subject to

conditions, and at the May 11, 2001 meeting and the June 14, 2001 meeting, the Subcommittee reviewed the draft Decision.

A final public hearing was opened by a hearing officer on May 24, 2001 and continued to June 21, 2001. On June 21, a final public hearing was held by the Commission. The public hearing and record were closed. At this hearing, the Cape Cod Commission voted unanimously to approve the project as a DRI, subject to conditions.

MATERIALS SUBMITTED FOR THE RECORD

From the Proponent:

1. Color Site Concept Plan, S&D Zone dated September 1998
2. Letter from Randy Hart and Matthew Kealey, VHB, to Cape Cod Commission, dated December 21, 1998.
3. Color Site Concept Plan, S&D Zone dated February 20, 1998.
4. Undated, untitled conceptual drawings, Sheet #1, Sheet #2, Sheet #3, Sheet #4.
5. Environmental Notification Form, April 1999.
6. Letter from Robert A. Lacourse to Secretary Robert Durand, EOE, dated May 4, 1999.
7. Letter from Bob Lacourse and Jill Jeffries to Reviewers/Distribution List, dated May 5, 1999.
8. Development of Regional Impact application, received June 16, 1999.
9. Draft Environmental Impact Report, October 1999.
10. Approval Site Plans dated October 15, 1999, Latest Issue October 15, 1999.
11. Maps with locations of petition respondents received from Michael D. Ford on November 4, 1999.
12. Letter and Petition (approx. 2300 signatures in favor) dated November 8, 1999.
13. Revised Site Plan with Library by VHB, dated January 5, 2000.
14. Revised Site Plan by VHB, dated January 5, 2000.
15. Final Environmental Impact Report, November 2000.
16. Letter with enclosures from Ed Betancourt, VHB, to Glenn Cannon, dated December 26, 2000.
17. Color elevations, EL1, EL2, EL3, EL4, by Arrowstreet, Inc., dated November 6, 2000.
18. Stop & Shop Elevations and Plans, Sheet EL3, by Arrowstreet, Inc., dated November 23, 2000.
19. Retail A Elevations and Plans, Sheet EL4, by Arrowstreet, Inc., dated November 23, 2000.
20. FEIR Approval Site Plans dated November 30, 2000, Latest Issue November 30, 2000.
21. Fax transmittal with property deeds, received January 3, 2001.
22. FEIR Approval (CCC Staff Comments) dated November 30, 2000, Latest Issue February 20, 2001.
23. Response to Comments, February 22, 2001.
24. Conceptual Roadway Improvement Plan by VHB, dated 2/22/01.
25. Letter from Randall C. Hart, VHB to Tana Watt, Cape Cod Commission dated February 26, 2001.
26. Noise Impact Assessment dated January 2000, received March 15, 2001.

27. Letter from Steven R. Chouinard and Randall C. Hart, VHB to Tana Watt dated March 23, 2001, containing Shut Off Valve plans, lighting information, Zenon information, and traffic information.
28. Copy of Fax from Margo Webber, DEP, to Bryan Lynch, dated 3/27/01, received March 27, 2001.
29. Wastewater Treatment Shed Elevation, Sheet 1, by Arrowstreet Inc., dated March 27, 2001.
30. Preliminary Elevations Sheet EL-1 by Landry Architects, date drawn 3/01/01, date issued 4/06/01.
31. Stop and Shop and Retail A Elevations, Sheet EL1, by Arrowstreet Inc., dated March 22, 2001.
32. Fax from Michael D. Ford, Esq. to Tana Watt dated April 12, 2001.
33. Landscaping Supplement Plan dated April 12, 2001 and Bicycle Pedestrian Path Section A-A.
34. Fax of revised proposed Landscape Maintenance Agreement, from Randall C. Hart, VHB, to Tana Watt, dated April 13, 2001.
35. Transmittal letter from Scott Pollack to Tana Watt containing building elevations dated April 16, 2001.
36. Retail B, D,E & Bicycle Pavilion Elevations, Sheet EL2, by Arrowstreet, Inc., dated April 13, 2001.
37. Asbestos Survey dated October 2, 1998, received April 13, 2001.
38. Letter from Randall C. Hart, VHB, to Claudet Moses, NSTAR, dated April 18, 2001.
39. 2nd Letter from Randall C. Hart, VHB, to Claudet Moses, NSTAR, dated April 18, 2001.
40. Letter from Randall C. Hart to Glenn Cannon, Cape Cod Commission, dated April 18, 2001.
41. Fax of revised entrance island from Steve Chouinard, VHB to Tana Watt, dated April 19, 2001.
42. Conceptual Undergrounding Plan drawn on Conceptual Roadway Improvement Plan C-1 (Sheet 1 of 1) dated 02/22/01, received April 19, 2001.
43. Conceptual Undergrounding Plan drawn on Conceptual Utility Pole Relocation Plan C-1 (Sheet 1 of 3) dated 04/10/01, received April 19, 2001.
44. Conceptual Undergrounding Plan drawn on Conceptual Utility Pole Relocation Plan C-1 (Sheet 2 of 3) dated 04/10/01, received April 19, 2001.
45. Conceptual Undergrounding Plan drawn on Conceptual Utility Pole Relocation Plan C-1 (Sheet 3 of 3) dated 04/10/01, received April 19, 2001.
46. Fax from R. Hart to Tana Watt, dated 4/23/01.
47. Letter from Randall C. Hart to Walter Steinkrauss, et. al., dated April 24, 2001.
48. Undated color perspectives of Falmouth Road and Internal Parking Lot.
49. Fax from Randy Hard to Tana Watt, dated 5/4/01.
50. Fax from Steve Chouinard to Mike Ford dated 5/9/01.
51. Letter from Randall C. Hart, VHB, to Tana Watt, dated May 10, 2001.
52. Fax from Michael D. Ford, Esq. to Tana Watt, dated 5/10/01.
53. Draft Groundwater Discharge permit dated May 10, 2001.
54. Fax from Michael D. Ford, Esq. to Tana Watt, dated 5/11/01.
55. Proposed Phasing Plan, received 5/11/01.
56. Final set of project plans, issued November 30, 2001, latest issue May 15, 2001.

57. Open Space Plan, dated 5/15/01.
58. E-mail from Edwin Betancourt, VHB, to Tana Watt, dated May 15, 2001.
59. E-mail from Bryan Lynch, VHB, to Ed Eichner, dated May 15, 2001.
60. E-mail from Steve Chouinard, VHB, to Ed Eichner, dated May 16, 2001 with Memorandum dated 5/15/01 entitled "Nutrient Loading Analysis".
61. E-mail from Steve Chouinard, VHB, to Ed Eichner, dated May 16, 2001 with Memorandum dated 5/15/01 entitled "Nutrient Loading/Groundwater Mounding Analyses".
62. E-mail letter to Walter Steinkrauss, Stop & Shop, from Jonathan D. Andrews and Peter H. Baril entitled "Draft Hydrogeologic Investigation Report".

From Cape Cod Commission staff:

1. Staff Report dated May 28, 1999.
2. Letter to Secretary Robert Durand, EOE, from Cape Cod Commission, dated June 24, 1999.
3. Staff Report dated November 10, 1999.
4. Letter to Secretary Robert Durand, EOE, from Cape Cod Commission, dated November 19, 1999.
5. Staff Report dated December 28, 2000.
6. Letter to Secretary Robert Durand, EOE, from Cape Cod Commission, dated January 5, 2001.
7. Staff Report dated March 8, 2001.
8. Project Update Memorandum dated April 19, 2001.

From state/local officials:

1. Letter dated June 1, 1999 from Craig A. Crocker, Centerville-Osterville-Marstons Mills Water Department, to Secretary Robert Durand, MEPA Unit.
2. Report received June 16, 1999 from the Town of Barnstable Planning Department.
3. Letter dated June 21, 1999 from James D. Tinsley, Town Manager, to Robert Durand, EOE, and Dave Shepardson.
4. Letter dated June 24, 1999 from Richard Bourre, MassHighway, to Robert Durand, EOE.
5. MEPA Certificate on the Environmental Notification Form dated July 1, 1999.
6. Letter dated July 27, 1999 with attachment from Cape Cod Regional Transit Authority to Sara Korjeff.
7. MHC Project Notification Form, September 30, 1999.
8. Letter dated September 30, 1999 from Robert Durand, EOE, to Robert Klaibur.
9. Letter dated October 22, 1999 from Craig Crocker, COMM, to Robert Durand, EOE.
10. Letter dated November 19, 1999 from Susan G. Rask, R.S., Chairman Barnstable Board of Health to Secretary Robert Durand, EOE.
11. Letter dated November 24, 1999 from Richard Bourre, MassHighway, to Secretary Robert Durand, EOE.
12. MEPA Certificate on the Draft Environmental Impact Report dated November 29, 1999.

13. Letter dated January 2, 2001 from Richard Barry, Councilor Precinct 7, to Tana Watt, in opposition.
14. Digital copy of letter dated January 3, 2001 from Board of Water Commissioners, to Tom Camberari.
15. Letter dated January 4, 2001 from John M. Farrington, Chief of C-O-MM Fire District, to Cape Cod Commission.
16. Letter dated January 16, 2001 from Richard Bourre, MassHighway, to Secretary Robert Durand, EOEА.
17. MEPA Certificate on Final Environmental Impact Report dated January 16, 2001.
18. Letter dated February 11, 2000 from Craig A. Crocker, Centerville-Osterville-Marstons Mills Water Department, to Tom Cambareri.
19. E-mail dated February 18, 2000 from Roy Fogelgren, Barnstable Planning Board, to Cape Cod Commission.
20. Letter dated March 14, 2001 from Gary C. Blazis, Barnstable Town Council, to Elizabeth Taylor.
21. Town of Barnstable Sidewalk Plan received March 14, 2001.
22. Fax dated March 23, 2001 from Douglass Bill to Glenn Cannon.
23. Letter dated April 24, 2001 from Thomas J. Mullen, DPW Director, to Tana Watt.
24. Letter dated April 26, 2001 from Robert A. Burgmann, P.E., Town Engineer, to Cape Cod Commission.
25. Undated letter from Mary Jacobs, Barnstable Assistant Town Manager to Robert Durand, EOEА, and Elizabeth Taylor.

From the public:

1. E-mail dated December 9, 1998 from Carl G. Rideout to Cape Cod Commission, in opposition.
2. Letter dated December 10, 1998 from Peggy McGarrahan, Cotuit-Santuit Civic Association, to Ralph Crossen.
3. Letter dated December 11, 1998 from Carl G. Rideout to Cape Cod Commission, in opposition.
4. E-mail dated December 30, 1998 from Mary O'Rourke Sullivan to Front Desk, in opposition.
5. E-mail dated December 30, 1998 from Jary O'Rourke Sullivan to planners@Cape Cod Commission, in opposition.
6. Letter dated January 12, 1999 from Larry Mahoney to Tana Watt, in opposition.
7. Letter dated January 27, 1999 from Peggy McGarrahan, Cotuit-Santuit Civic Association, to Tana Watt.
8. Letter dated May 21, 1999 from Anne Gould and Jim Gould to Tana Watt, in opposition.
9. Letter dated June 8, 1999 from Lauren M. Kanzer to Tana Watt.
10. Letter dated June 9, 1999 from Larry Mahoney to Tana Watt, in opposition.
11. Letter dated June 10, 1999 from Laurel Brown to Tana Watt, in opposition.
12. Letter dated June 10, 1999 from Barbara & Ernest Burdett to Tana Watt, in opposition.
13. Letter dated June 11, 1999 from Kenneth H. Molloy to Cape Cod Commission.
14. Letter dated June 12, 1999 from Peggy McGarrahan, President of the Cotuit-Santuit Association to Tana Watt, in opposition.

15. Letter dated June 13, 1999 from Donald J. McLellan to Tana Watt, in opposition.
16. Letter dated June 13, 1999 from Peter and Marian Hickman to Tana Watt.
17. Letter dated June 14, 1999 from Douglas C. Kneale to Cape Cod Commission.
18. Letter dated June 14, 1999 from Sheila L. Mullen to Tana Watt.
19. E-mail dated June 15, 1999 from Daniel Kossman to Tana Watt, in opposition.
20. Letter dated June 15, 1999 from Graham O. Harrison and Joanne Z. Harrison to Tana Watt, in opposition.
21. Letter dated June 15, 1999 from Frances E. Schmid to Tana Watt, in opposition.
22. Letter dated June 15, 1999 from Judith G. Wiseman to Tana Watt.
23. Letter dated June 15, 1999 from Joseph E. Connolly to Tana Watt, in opposition.
24. Letter dated June 16, 1999 from William S. and Rosa B. Babcock to Cape Cod Commission, in opposition.
25. Letter dated June 16, 1999 from Mertin A. Bell to Cape Cod Commission, in opposition.
26. Letter dated June 16, 1999 from Ruth Bell to Cape Cod Commission, in opposition.
27. Letter dated June 16, 1999 from Nancy J. Jarvis to Tana Watt, in opposition.
28. Letter received June 16, 1999 from Amy McGuire Kates to Tana Watt, in opposition.
29. Roland Tire Decision submitted at June 16, 1999 by a member of the public.
30. Letter dated June 17, 1999 from Larry Mahoney to Cape Cod Times, in opposition.
31. Letter dated June 18, 1999 from Thomas White to Tana Watt, in opposition.
32. Letter dated June 18, 1999 from Carol A. Latfy to Tana Watt, in opposition.
33. Letter dated June 18, 1999 from James H. Bodurtha to Tana Watt, in opposition.
34. Letter dated June 21, 1999 from Mary Anne Gauthier to Tana Watt, in opposition.
35. Letter dated June 21, 1999 from Peggy McGarrahan, President Cotuit-Santuit Civic Association, to Tana Watt.
36. Letter dated June 21, 1999 from A. Rooney Simkus to Tana Watt, in opposition.
37. Letter dated June 21, 1999 from Patricia A. O'Rourke to Dave Shepardson, in opposition.
38. Letter dated June 22, 1999 from Gintaras Subatis to Tana Watt, in opposition.
39. E-mail dated June 22, 1999 from Gintaras Subatis to Tana Watt, in opposition.
40. Letter dated June 22, 1999 from Eric Michelsen to Dave Shepardson, in opposition.
41. Letter dated June 22, 1999 from Eric Michelsen to Tana Watt, in opposition.
42. E-mail dated June 22, 1999 from Robert Klaiber, President Old Post Landing Association, to Tana Watt, in opposition.
43. Letter dated June 22, 1999 from Ann M. and Joseph A. Cavallo to Dave Shepardson, in opposition.
44. Letter dated June 22, 1999 from Ann M. and Joseph A. Cavallo to Tana Watt, in opposition.
45. Letter dated June 22, 1999 from Kathy Sinola to Tana Watt, in opposition.
46. E-mail dated June 23, 1999 from Amy M. Kates to Tana Watt, in opposition.
47. Letter dated June 23, 1999 from Joan Juechter to Tana Watt, in opposition.
48. Letter dated June 28, 1999 from Joseph J. Lyons to Tana Watt, in opposition.

49. Letter dated July 10, 1999 from Herbert G. Anderton, Jr. to Tana Watt.
50. Letter dated July 16, 1999 from Peggy McGarrahan to Tana Watt.
51. Letter dated August 14, 1999 from Peggy McGarrahan to Cape Cod Times, in opposition.
52. Letter dated August 14, 1999 from Peggy McGarrahan to Tana Watt.
53. Letter dated August 16, 1999 from Christine Robello to Tana Watt, in opposition.
54. Petition dated August 24, 1999 from Landsdown section of Marstons Mills with approximately 25 signatures, in opposition.
55. Citizens Petition received in September 1999 containing approximately 342 signatures, mostly in opposition (9 in favor).
56. Newspaper articles received September 3, 1999 from Peggy McGarrahan.
57. Letter dated September 10, 1999 from Larry Mahoney to Tana Watt, in opposition.
58. Letter dated September 19, 1999 from Edwin W. Bragdon to Gentlemen, in opposition.
59. Letter dated September 20, 1999 from Mary Peddell Crotlair to Cape Cod Commission, in opposition.
60. Letter dated September 21, 1999 from Graham O. Harrison to Tana Watt, in opposition.
61. Letter dated September 26, 1999 from Anne M. Jenkins to Tana Watt, in opposition.
62. Letter dated September 26, 1999 from Joanna Erikson to William Grice, CEO Stop & Shop Corporation, in opposition.
63. Letter dated September 28, 1999 from Christie Stewart to Cape Cod Commission and MEPA, in opposition.
64. Letter dated September 29, 1999 from Clare K. Putnam and Charlton Putnam to Tana Watt, in opposition.
65. Letter dated October 5, 1999 from Mary H. Jeudd to Cape Cod Commission, in opposition.
66. Letter received October 7, 1999 from Robert C. Healey and Ruth E. Healey to Cape Cod Commission, in favor.
67. Letter dated October 20, 1999 from Francis T. Keally and Julia B. Keally to Tana Watt, in opposition.
68. Letter dated October 26, 1999 from Joe Connolly to Tana Watt and Dave Shepardson, in opposition.
69. E-mail dated November 3, 1999 from Carl G. Rideout to water@Cape Cod Commission, in opposition.
70. Letter dated November 9, 1999 from Kenneth H. Molloy to MEPA.
71. Letter dated November 12, 1999 from Kenneth H. Molloy to MEPA.
72. Letter dated November 12, 1999 and Citizens Petition with approx. 581 signatures from Peggy McGarrahan, President Cotuit-Santuit Civic Association
73. Letter dated June 13, 1999 from Peter and Marian Hickman to Tana Watt.
74. Letter dated November 15, 1999 from Kenneth H. Molloy to MEPA Unit Secretary, in opposition.
75. Letter dated November 16, 1999 from Carol Lyall to Cape Cod Commission, in opposition.
76. E-mail dated November 16, 1999 from Russell A. Ridolfi to Tana Watt, in opposition.
77. Letter dated November 16, 1999 from Diane R. Klaiber to Secretary Bob Durand, in opposition.

78. Letter dated November 16, 1999 from Robert Klaiber to Secretary Bob Durand, in opposition.
79. Petition submitted by Linda Edson at November 16, 1999 Public Hearing with 2,300 signatures, in support.
80. Letter dated November 17, 1999 from Richard Barry to Tana Watt, in opposition.
81. Letter dated November 17, 1999 from Howard B. Bacon to David Shepardson, MEPA, in opposition.
82. E-mail dated November 17, 1999 from Rene J. Salmier, Jr. to Editors, in opposition.
83. E-mail dated November 17, 1999 from Carl G. Rideout to Cape Cod Commission, in opposition.
84. Letter dated November 18, 1999 from Ann M. Cavallo and Joseph A. Cavallo to Tana Watt, in opposition.
85. Letter dated November 19, 1999 from Merrill and Barbara Hosmer to Mr. Shepardson, MEPA, in opposition.
86. Letter dated November 19, 1999 from Robert Klaiber and Diane Klaiber to Tana Watt.
87. Letter dated November 19, 1999 from Larry Mahoney to Tana Watt, in opposition.
88. Letter dated November 19, 1999 from Anne & Jim Gould to David Shepardson, in opposition.
89. Letter dated November 19, 1999 from John B. McArdle to David Shepardson, MEPA, in favor.
90. E-mail dated November 22, 1999 from Patricia O'Rourke to David Shepardson, in opposition.
91. E-mail dated November 22, 1999 from Mary O'Rourke Sullivan to Robert Durand, EOEPA.
92. E-mail dated November 23, 1999 from Patricia O'Rourke to Tana Watt.
93. Letter dated December 15, 1999 from Mimi McConnell to Editor, in opposition.
94. Letter dated January 7, 2000 from Sheila Place to David E. Shepardson, MEPA, in opposition.
95. Letter dated January 11, 2000 from George E. Balch to Tana Watt, in opposition.
96. Envelope of newspaper clippings received February 1, 2000 from The Mahoneys.
97. E-mail dated February 14, 2000 from Carl G. Rideout to Cape Cod Commission, in opposition.
98. Letter dated April 12, 2000 from Howard B. Bacon to Tana Watt, in opposition.
99. Letter dated July 5, 2000 from Graham O. Harrison and Joanne Z. Harrison to Tana Watt, in opposition.
100. Letter dated September 25, 2000 from Larry Mahoney to Tana Watt, in opposition.
101. Letter dated December 22, 2000 from Diane R. Klaiber to Elizabeth Taylor, in opposition.
102. Letter dated December 24, 2000 from Andrew F. Picariello to Tana Watt, in opposition.
103. Letter dated December 26, 2000 from Robert Klaiber to Elizabeth Taylor, in opposition.
104. Letter dated December 27, 2000 from Salvatore N. Norcia and Ann Marie Norcia to Tana Watt, in opposition.
105. Letter dated December 29, 2000 from Carl G. Rideout to Cape Cod Commission, in opposition.
106. Letter dated December 30, 2000 from Karen E. Hayden to Marstons Mills Village Association, in support.
107. Letter received January 2, 2001 from Richard and Gail DiPlatzi to Cape Cod Commission, in favor.
108. Letter received January 2, 2001 from Paula O'Brien, in favor.

109. Letter received January 2, 2001 from Francis M. Garafio, in favor.
110. Letter received January 2, 2001 from Stephanie R. Huga, in favor.
111. Letter received January 2, 2001 from Justin Phillipe, in favor.
112. Letter received January 2, 2001 from Gavin Mahler, in favor.
113. Letter received January 2, 2001 from Cathy Cantra, , in favor.
114. Letter received January 2, 2001 from Lauren Pitz, Maurech E. Pitz and Karl E. Pitz, in favor.
115. Letter received January 2, 2001 from Rita Seaman, in favor.
116. Letter received January 2, 2001 from Karen Enos, in favor.
117. Letter received January 2, 2001 from Jaime Petropoulos, in favor.
118. Letter received January 2, 2001 from (illegible) in Marstons Mills, in favor.
119. Letter received January 2, 2001 from Brian M. Dahirs, in favor.
120. Letter received January 2, 2001 from Margo O'Brien, in favor.
121. Letter received January 2, 2001 from Matthew C. Falk, in favor.
122. Letter received January 2, 2001 from (illegible), in favor.
123. Letter received January 2, 2001 from Bill McCady, in favor.
124. Letter received January 2, 2001 from Dan Akin, in favor.
125. Letter received January 2, 2001 from Joyce C.Cleghorn, in favor.
126. Letter received January 2, 2001 from Dayna Green, in favor.
127. Letter dated January 2, 2001 from Kenneth H. Molloy to Cape Cod Commission and MEPA, in opposition.
128. Letter dated January 3, 2001 from Marguerite Hutchinson, in favor.
129. Letter dated January 3, 2001 from A. Richard Casey to Tana Watt, in opposition.
130. Letter dated January 4, 2001 from Carol Lyall to Cape Cod Commission, in opposition.
131. Petition submitted at the January 3, 2001 Public Hearing containing approximately 1,425 signatures, in favor.
132. Letter dated January 5, 2001 from Howard B. Bacon to David Shepardson, MEPA, in opposition.
133. Letter dated January 5, 2001 from Amy McGuire Kates to Cape Cod Commission and MEPA, in opposition.
134. E-mail dated January 8, 2001 from Helen H. Helfer to Tana Watt and Dave Shepardson, in support.
135. Letter dated January 9, 2001 from Larry Mahoney to Tana Watt, in opposition.
136. Letter faxed on January 9, 2001 from Steve Gould to Cape Cod Commission, in opposition.
137. Fax dated January 9, 2001 from Deborah S. Gustafson to Tana Watt.
138. Letter dated January 12, 2001 from Edward G. Schwarm to Tana Watt, in favor.
139. Letter dated January 30, 2001 from Andrew F. Picariello to Tana Watt, in opposition.
140. Letter dated January 31, 2001 from Larry Mahoney to Tana Watt, in opposition.
141. Letter dated March 9, 2001 from Gregory A. Davis to Cape Cod Commission, in opposition.

142. Letter dated March 9, 2001 from Larry Mahoney to Tana Watt, in opposition.
143. Letter dated March 13, 2001 from Lois Wilkerson to Cape Cod Commission, in opposition.
144. Letter dated March 15, 2001 from Kenneth H. Molloy to Cape Cod Commission, in opposition.
145. Letter dated March 15, 2001 from Deborah Schilling to Cape Cod Commission, in favor.
146. Letter received March 15, 2001 from Donna M. Lawson to Cape Cod Commission, in favor.
147. Letter received March 15, 2001 from Al Baker to Cape Cod Commission, in favor.
148. Letter received March 15, 2001 from Judy Baker to Cape Cod Commission, in favor.
149. Letter received March 15, 2001 from Michel Battino to Cape Cod Commission, in favor.
150. Letter dated March 15, 2001 from Alison L. McMurry to Tana Watt, in opposition.
151. Map submitted on June 17, 2001 by Peggy McGarrahan.
152. Letter dated March 17, 2001 from Graham O. Harrison and Joanne Z. Harrison to Tana Watt, in opposition.
153. Letter dated March 18, 2001 from Diane Klaiber to Cape Cod Commission, in opposition.
154. Letter dated March 18, 2001 from Diane Klaiber to Cape Cod Commission, in opposition.
155. Letter dated March 18, 2001 from Louise Power to Cape Cod Commission, in opposition.
156. Letter dated March 19, 2001 from Joseph A. Cavallo and Ann M. Cavallo to Tana Watt, in opposition.
157. E-mail dated March 19, 2001 from Sue G. Newman to Tana Watt, in opposition.
158. Letter dated March 19, 2001 from Howard B. Bacon to Tana Watt, in opposition.
159. Letter dated March 19, 2001 from Olivia H. Miller to Cape Cod Commission, in opposition.
160. E-mail received March 19, 2001 from Sue G. Newman to Tana Watt, in opposition.
161. Letter dated March 20, 2001 from Thomas White to Tana Watt, in opposition.
162. Letter dated March 21, 2001 from Robert Klaiber to Tana Watt, in opposition.
163. E-mail dated March 21, 2001 from Rene J. Saulnier, Jr. to Cape Cod Commission, in opposition.
164. Letter dated March 22, 2001 from Kathleen & John Hughes to Cape Cod Commission, in opposition.
165. Letter dated March 22, 2001 from A. Richard Casey to Cape Cod Commission, in opposition.
166. Letter dated March 23, 2001 from Joseph S. Kelly to Cape Cod Commission, in opposition.
167. Letter dated March 23, 2001 from Jim and Shirley Eastman to Cape Cod Commission, in opposition.
168. Letter dated March 23, 2001 from David and Carole Webber to Cape Cod Commission, in opposition.
169. Letter dated March 24, 201 from Florence Pearlman to Cape Cod Commission, in favor.
170. Letter dated March 25, 2001 from William J. Luddy and Mary J. Luddy to Cape Cod Commission, in opposition.
171. Letter dated March 25, 2001 from Carol Brodd and Martin O'Donnell to Cape Cod Commission, in opposition.
172. Letter dated March 26, 2001 from Nicola Stacey to Cape Cod Commission, in favor.

173. Letter dated March 28, 2001 from Christine Lopes to Cape Cod Commission, in favor.
174. Flyer urging that residents write letters of opposition to the Cape Cod Commission, received March 28, 2001, representing 1 of 8 received by the Cape Cod Commission.
175. Letter dated March 29, 2001 from Dorothy Shore to Cape Cod Commission, in favor.
176. Letter dated March 30, 2001 from Kevin Tully to Cape Cod Commission, in opposition.
177. Letter dated March 30, 2001 from Mr. & Mrs. John Schulte to Cape Cod Commission, in opposition.
178. Letter dated March 30, 2001 from Francis T. Keally and Julia B. Keally to Cape Cod Commission, in opposition.
179. Letter received March 30, 2001 from Robert Neccheari to Cape Cod Commission, in support.
180. Letter received March 30, 2001 from Fran (illegible) to Cape Cod Commission, in favor.
181. Letter received March 30, 2001 from Doug (illegible) to Cape Cod Commission, in favor.
182. Letter received March 30, 2001 from George Ninta to Cape Cod Commission, in favor.
183. Letter received March 30, 2001 from Matthew C. Falk to Cape Cod Commission, in favor.
184. Development plan received March 30, 2001 submitted by an unknown member of the public.
185. Letter dated April 2, 2000 from Ron Lopes to Cape Cod Commission, in favor.
186. Letter dated April 2, 2000 from Dan (illegible) to Cape Cod Commission, in support.
187. Letter received April 3, 2001 from Shirlee and Robert Burd, in opposition.
188. Letter dated April 3, 2000 from Rita M. Seaman to Cape Cod Commission, in favor.
189. Letter received April 6, 2001 from Lauren Piuz to Cape Cod Commission, in favor.
190. Letter dated April 7, 2000 from Stephanie Henton, in favor.
191. Letter dated April 17, 2001 from Mr. & Mrs. Frank A. Rockett to Tana Watt, in opposition.
192. Letter dated April 18, 2001 from Peggge Griffin Bretz to Cape Cod Commission, in opposition.
193. Letter dated April 19, 2001 from Charles Rodgers, in opposition.
194. Letter dated May 15, 2001 from Eleanor M. Olin, in opposition.
195. E-mail from Martin ODonnel dated May 28, 2001.
196. Letter received June 4, 2001 from Robert Kingsbury, in opposition.
197. Letter received June 8, 2001 from David Abulis, in support.
198. Letter received June 8, 2001 from Leah C. Curtis, in support.
199. Letter received June 14, 2001 from Stephanie R. Hinton, in support.
200. Letter received June 14, 2001 from Rita M. Seaman, in favor.
201. Letter received June 14, 2001 from Frank Griffin, in favor
202. Letter received June 14, 2001 from Matthew C. Falk, in support.
203. Letter received June 14, 2001 from illegible, in support.
204. Letter received June 14, 2001 from Justin Phillips, in support.
205. Letter dated June 21, 2001 from Koren Stenbridge, in support.
206. Letter received June 21, 2001 from Robert Kingsbury, in opposition.

207. Letter received June 21, 2001 from Stacey Cocasno, in support.
208. Letter received June 21, 2001, from Bruce Slater, in support.
209. Letter received June 21, 2001, from Beverly Slater, in support.
210. Letter received June 21, 2001, from Ron Lopes, in support.
211. Letter received June 21, 2001, from Nicola Stacey, in support.
212. Letter received June 21, 2001, from Scott illegible, in support.
213. Letter received June 21, 2001, from Chris D. Entrenort, in support.
214. Letter received June 21, 2001, from Jeff Pino, in support.
215. Undated letter from Steve Gould to Cape Cod Commission, in opposition.
216. Undated letter from Kelly Starke to Marstons Mills Village Association, in support.
217. Undated letter from Alan O'Sullivan, in favor.
218. Undated letter from James Mediker, in favor.
219. Undated letter from Geoffry Pino, in favor.

The application and notices of public hearings relative thereto, the Commission staff's notes, exhibits and correspondence, the transcript and minutes of meetings and hearings and all written submissions received in the course of our proceedings are incorporated into the record by reference.

TESTIMONY

Note: see minutes in file for complete public hearing testimony.

The Commission heard oral testimony at the June 16, 1999 Public Hearing from:

1. Jackie Etsten, Barnstable Planning Department, discussed Town concerns related to the project, including well field contamination, traffic and cumulative impacts.
2. Ralph Crossen, Barnstable Building Commissioner, expressed his concern about possible future uses of the existing buildings, water issues and traffic.
3. Linda Edsen, President of the Marstons Mills Civic Association, spoke in favor of the project as long as traffic and water issues were resolved.
4. Warner James, Cotuit, expressed concern about traffic.
5. Peggy McGarrahan, President of the Cotuit/Santuit Civic Association, expressed concerns about the size and scale of the project, water resources, traffic, and the regional draw of the project.
6. Alfred Howard of Howard/Stein-Hudson Assoc., Boston, said that the applicant's number of estimated trips is low.
7. Don MacEahren, Cotuit Landing shop-owner, spoke in favor of the project as a benefit to the local shop-owners and residents.
8. Lauren Kenzer, Cotuit, expressed concern about over-development of the area, the large amount of parking, and community character.
9. Thomas White, Marstons Mills, expressed concern about the size of the project, parking lot lighting and traffic impacts.
10. Margo O'Brien, Marstons Mills, spoke in favor of the project.

11. Dan Asher, Cotuit, expressed concern about the stores that will occupy the existing and proposed buildings.
12. Gintaras Subatis, Marstons Mills, said that he was concerned about devaluation of nearby residential property, lighting, waste, noise, animal control, and safety for local children.
13. Yvette Buchard, owner of the Oyster Frame Shop next door, expressed concern about increased traffic.
14. Ken Molloy, Cotuit, said that the Marstons Mills residents expressed concern about traffic and water resources.
15. Richard Clifford, Marstons Mills, expressed support for the project.
16. Larry Mahoney, Cotuit, expressed concern about traffic.
17. Laura Opie, Cotuit, said that her husband is president of Tex Boats; expressed concern about increased traffic and water issues.
18. Dolores Bush, Marstons Mills, spoke in support of the project because of convenience.
19. Deborah Schilling, Cotuit, spoke in support of the project.
20. Rich Barry, Cotuit, expressed concern about about increased traffic and water issues.
21. Graham Harrison, Cotuit, stated that there was no need for an additional food store in the vicinity.
22. Gary Blazis, Town councillor from Marstons Mills, spoke in favor of the project.
23. Robert Healy, Cotuit, spoke in support of the project for its convenience.

The Commission heard oral testimony at the November 16, 1999 Public Hearing from:

1. Robin Giangregorio, Site Plan Coordinator, spoke representing Mr. Ralph Crossen. Noting concern about the environmental impacts on the Wellhead Protection District, traffic and community character. She said that the Bioclere system, new jobs and protected open space were positive points for the development.
2. Jackie Etsten, Barnstable Planning Department, described the zoning in the area, and the Local Comprehensive Plans identification of this area as an Area of Concern. She questioned the trip generation rates. She noted that the Planning Department advocates median strips on Route 28. She discussed pedestrian facilities, the signal at Putnam Avenue, and open space.
3. Gary Blazis, Barnstable Town Councilor and Marstons Mills Town Councilor Precinct 11, spoke in favor of the project, citing open space and convenience.
4. Carl Bradbury, Putnam Ave., spoke in favor of the project.
5. Mary O'Rourke Sullivan said that she was opposed to the project because of water quality impacts on Prince Cove and the herring run.
6. Pat O'Rourke expressed concern about traffic and water quality impacts.
7. Maria Sheppard expressed support for a smaller store.
8. Monica Seggos, Cotuit, expressed concern about the impacts to the vernal pool, traffic, community character and impacts on property values.
9. Carl Rideout, Mashpee, opposed the project because of overdevelopment on Cape Cod.
10. Robert Klaiber, Marstons Mills, expressed concern about traffic and community character.
11. Diane Klaiber, Marstons Mills, said that she was opposed to the project based on concerns about safety, traffic, air, water, light pollution and declining real estate values.

12. Peggy McGarrahan, President of the Cotuit Civic Association, said that the Association supports a much smaller because there would be less impact on the environment and traffic.
13. Charlotte Shumway, Marstons Mills, said that she supports the project.
14. Koren Stenbridge, Director of the Marstons Mills Public Library, spoke in favor of the project because of convenience.
15. David Hayward, Marstons Mills, supports the project for convenience.
16. Ken Molloy, Cotuit, said he had concerns about traffic, nitrogen loading, stormwater and pedestrian access.
17. Bob Kingsbury, Cotuit, expressed concern about the vernal pool and recommended sustainable development.
18. Linda Edson, President of the Marstons Mills Village Association, expressed support for the project.
19. Carolyn Larson, Marstons Mills, expressed support for the project.
20. Don Maceachern, tenant in Cotuit Landing and resident of Cotuit, said that he supports the project.
21. Dolores Bush, Marstons Mills, said that although she was concerned about additional traffic impacts, she supports having over 60% open space protection on-site and a library.
22. Deborah Schilling, President of the Marstons Mills Board of Library Trustees, past Marstons Mills resident and current Cotuit resident, said that the project would be a benefit to the plaza and the whole community.
23. Dick Clifford said he was in favor of the project because of the library, land conservation, convenience and employment.
24. Frank Budryk said that he supported a smaller store and a library.
25. John Hansen said that he was in favor of the project, but that they should comply with the laws to control environmental impacts.
26. Leah Curtis, Marstons Mills, said that although she would prefer a smaller store, they need a store, although the applicant needs to comply with the rules.
27. Eileen Hegg said that she was opposed to a large store, and would prefer a smaller store.
28. Graham Harrison expressed concern about additional traffic and the size of the store, and expressed preference for a small store.
29. Howard Bacon said he was opposed to the project as proposed. He said he would like a smaller grocery store.
30. Carl Rideout expressed a preference for a smaller store.
31. Rebecca Sansone, Cotuit, said that she would like a smaller market. She said she was opposed to roadway widening and new lights.
32. Bob Firth, Marstons Mills, said that he was opposed to a large store due to its increased impacts.
33. Romas Brickus, from Europe, expressed support for a smaller store and noted his concern about traffic impacts.
34. Julie Swanson, Marstons Mills, said she supported a small store, and a health club should be included in the plans.
35. Pete Swanson, Marstons Mills, said we need a small store.
36. Bill Holden, Marstons Mills, said he supports a superstore.

37. Peter Gwynne, Marstons Mills and a Marstons Mills Library Trustee, supported the proposal, saying that the library would be a good idea.
38. Matthew Falk, owner of Cotuit Liquors, said that Stop & Shop is a public spirited company and has done a good job.
39. Maria Shephard, Marstons Mills, said that she would like the store to be in Cotuit.
40. Frank Ednuly, Cotuit, expressed support for a small store that was in character with the area and that would not create strip development.

The Commission heard oral testimony at the January 3, 2001 Public hearing from:

1. Jackie Etsten, Barnstable Town Planner, said that proposed plan was greatly reduced compared to what could be developed on the site. She noted the location of the Hayden Wellfields and the Geele parcel, and said that the roadway design meets the Local Comprehensive Plan. She said the plan minimizes access points on Route 28 to two site drives.
2. Gary Blazis, Town Council Representative from Marstons Mills, said the proposal had been endorsed by the Local Comprehensive Planning Committee and that the town needs the tax revenues. He said this plan will alleviate the traffic problems and add open space.
3. Carl Riedell, President COMM Water District and Councilor for District #5, discussed the Zone II and said that the COMM is very pleased with the offer of the Geele property and conservation restriction. Speaking as Councilor for District #5, he is in favor of the project.
4. Gregory Milne, Barnstable Town Councilor and Hyannis resident, said he represents the entire town. He read a letter from Rick Barry into the record. He said he was opposed to the project based on traffic concerns, low-paying retail jobs and sprawl.
5. Karen Hushin, Marstons Mills, opposes the project in favor of redeveloping the site for a smaller marketplace.
6. Robert Klaibur, Marstons Mills, opposed the project based on traffic concerns.
7. Linda Edson, Marstons Mills Village Association, said the Board of Directors is in favor of the project because it will improve traffic conditions and shopping.
8. Diane Klaibur, Marstons Mills, is opposed to the project because of the roadway and intersection widening, and favors a smaller store such as Windfall Market.
9. Jeane Bradford, Marstons Mills, is opposed to the project because of traffic and safety concerns.
10. Saul Baker, Marstons Mills, is in favor because his wife wants the store.
11. Jay McCartle, owner of Cape Leisure Casual Furniture, is in favor of the store because it will be an asset to the area.
12. Leah Curtis, Marstons Mills, Secretary of the Marstons Mills Village Association, supports the project because alternatives like strip commercial are not as good.
13. Robert Vickione, Marstons Mills, is in favor of a local market because of convenience.
14. Ron Lopes, of Pizza Wave, is in favor of the project because the plaza needs a good anchor tenant and the alternatives are more scary than what is proposed.
15. Peter Levine, Marstons Mills, Board of Trustees on the Marstons Mills Village Association, supports the project because it would be more convenient.
16. Dan O'Brien, Cotuit Liquors, supports the project for the sake of the businesses in the plaza and the people of Marstons Mills.
17. Craig Larson, Marstons Mills, is in favor of the project as proposed.

18. Don McHeckron, tenant of Cotuit Landing Plaza, is in favor of the project because the plaza needs a major anchor store and the plaza would be doomed if the project is denied.
19. Debra Schilling, Cotuit, is in favor of the project.
20. Donna Lawson, Marstons Mills, is in favor of the project because a smaller store like Friends did not meet her needs.
21. Kenneth Lickour supports the project.
22. Judy Picarello, Marstons Mills, is opposed to the project because air pollution caused by vehicle idling will increase.
23. Andy Picarello, Marstons Mills, expressed concern about traffic.
24. Debbie Lavoie, Marstons Mills, supports the project.
25. Katherine Boagh, Marstons Mills, supports the project.
26. Howard Bacon, Old Post Road, said that the size of the store is inappropriate and should be reduced. He is also concerned that the trade area is overly large.
27. Jerry Lynch, Putnam Avenue, is opposed to the project because it is too large and would begin to make the area look like Centerville.
28. Ken Molloy, Cotuit, is concerned that too much nitrogen is going into the ground from the stormwater, and suggested using BMP's like grassed swales.
29. Michael Tool, Cotuit, said he favored a smaller store.
30. Richard Clifford, Marstons Mills, supports the project because of the convenience and the open space proposal.
31. Robert Trout, Marstons Mills, supports the project because it is a responsible development plan.
32. Rev. Fran LaPorte, Senior Pastor in Marstons Mills, said the Stop & Shop in Sandwich was always helpful and supportive of the Town's youth and church. He said they offer gainful employment for youth.
33. Matthew Falk, works at Cotuit Liquors, supports the project because the traffic plan is a good one.

The Commission heard oral testimony at the March 15, 2001 Public Hearing from:

1. Richard Barry, Precinct 7 Town Councilor, expressed concern about the Zone II, the road widening, the Old Post Road intersection, and traffic. He supports a smaller store.
2. Don Megathlin, Chair of the Barnstable Economic Development Council and Cotuit resident, said the project has the support of the BEDC with 7 out of 8 board members voting in favor. He noted that the project had benefits in the areas of open space, fiscal and job creation, transportation, community character and revitalization.
3. David Ansel read a letter into the record from Gary C. Blazis saying that the Marstons Mills Village Association supports the project and the Barnstable LCP Implementation Committee endorsed the project as the best use of the property.
4. Elizabeth Taylor noted that other letters of support had been submitted for the record, from Deborah Schilling, Don MacEachern, Donna Lawson, Al Baker, Judy Baker, and Michel Battino.
5. Albert Amerigian, expressed opposition to the project due to its large size and increased traffic.
6. Carl Bradbury, Cotuit, supports the project because it would improve traffic and community character.
7. Howard Bacon, Marstons Mills, supports a smaller market for community character reasons.

8. Robert Kingsbury, Cotuit, supports a smaller store.
9. Michael O'Toole, Marstons Mills, supports a smaller store because of traffic impacts, lack of public input in the design, and competition with local businesses.
10. Lynda Edson, President of Marstons Mills Village Association, said that the Association supports the project.
11. Koren Stembridge, Marstons Mills Library Director, spoke in support of the project. She said she also spoke for Deborah Schilling and Don MacEachern who support the project.
12. Matthew Falk, Osterville resident and Cotuit Liquors Manager, supports the project for convenience and because it will revitalize the plaza.
13. Jay McArdle, Cape Leisure, supports the project because it would revitalize the plaza and an anchor store is needed.
14. Carolyn Larson, Marstons Mills, daycare provider, supports the project.
15. Al Baker, Marstons Mills, supports the project.
16. Donna Lawson, Marstons Mills, supports the project because of its convenience.
17. Ron Lopes, owner of Pizza Wave in Cotuit Landing, supports the project because the plaza needs to be revitalized and it would improve safety within the plaza.
18. Ken Molloy, Cotuit, expressed concern about nitrogen loading and stormwater.
19. Carl and Audrey Johnson, Marstons Mills, are against the project because there are other nearby grocery store options, it is too large, and there are environmental and traffic impacts.
20. Cam Ellsworth, Marstons Mills, supports a smaller market, and is concerned about Route 149 intersection and traffic impacts.
21. Edward Schwarm, Marstons Mills, supports the project.
22. Bernie Lanquist, Osterville, supports the project because of the traffic improvements and revitalization.
23. Tom Abugelis, Marstons Mills, supports a smaller store, and is concerned about the size of the project, the nitrogen loading, the effectiveness of the Zenon system, where the meat department drainage and disinfectant wash water would go, traffic, air quality, light pollution and urbanization.
24. Peter Kohler, Marstons Mills, supports the project because of the community character improvements, open space and revitalization.
25. Mary Crehan, Marstons Mills, is opposed to the project because of nitrogen loading and traffic.
26. Robert Klaiber, Marstons Mills, is opposed to the project because of traffic and water resources impacts, air pollution and large size.
27. Carol Jean O'Toole, Cotuit, is opposed to the project because it is too large and has too many impacts.
28. Richard Clifford supports the project because of the open space.
29. Leah Curtis, Marstons Mills Village Association, supports the project because the plaza is in disrepair and MassHighway will not upgrade Route 28, which the applicants are proposing to do.
30. Robert Klaibur read a letter from Ann Cevalo and Pat O'Rourke into the record. They are both opposed to the project.
31. Teresa Halloran, Marstons Mills, supports the store because of convenience.

32. Bob Livingston, a consulting engineer for water systems for large industrial projects like pharmaceutical manufacturers, expressed concern about the Zenon water system and wellfield contamination.
33. Rev. Fran Laporte supports the project because S&S supports the church and is an asset to the community.
34. Diane Klaiber, Marstons Mills, read a letter from Sal and Anne Norcia who oppose the project. Speaking for herself, Ms. Klaiber opposes the project because of congestion and unplanned growth and prefers a smaller store like Windfall Market.
35. Andrew Picarello noted that an independent traffic study should be provided because the applicants study serves their interest, and expressed concern about traffic congestion on Route 28.
36. Dave Whitmore, Cotuit shellfisherman, supports a smaller store, and is concerned that the addition of pollution and nitrogen to the coastal waters could put him out of business.
37. Rose Allen, Marstons Mills, is in favor of the project because it would be more convenient and create employment for her children
38. Teresa Halloran read a letter into the record from Michael Halloran. He is in favor of the project because of revitalization and balanced economic activity.

FINDINGS

The Commission has considered the application of The Stop & Shop Supermarket Company and Cape Cotuit Center, LLC for the proposed Cotuit Landing Redevelopment and Expansion project, and based on consideration of such application and upon the information presented at the public hearings and submitted for the record, makes the following findings pursuant to Sections 12 and 13 of the Act:

General Findings:

- G1. The project consists of the renovation and expansion of the existing Cotuit Landing Shopping Center on Route 28 and Putnam Avenue in Marstons Mills from 57,800 square feet and 300 parking spaces to a total of 125,584 square feet with 640 parking spaces. The project includes a new Stop & Shop supermarket, renovation of existing Retail A and B buildings, no change to existing Retail C building, and new Retail D and E buildings. The renovation of Retail A includes the demolition of approximately 8,768 square feet of existing development. A portion of the demolition is located within the Zone II Wellhead Protection Area.
- G2. The project site consists of 7 abutting parcels of land that cover an area of approximately 41.09 acres. Approximately 6.25 acres of off-site open space is located adjacent to the parcel.
- G3. The proposed project is located in a Certified Growth Center according to the Barnstable Local Comprehensive Plan, which was certified by the Cape Cod Commission in 1998. Although it is not located within an historic district and is not adjacent to individual historic structures, the project is located at the intersection with Putnam Avenue, a Barnstable LCP designated Scenic Road.
- G4. The project site does not lie within a District of Critical Planning Concern.
- G5. The proposed project was categorically included for the preparation of an Environmental Impact Report (EIR) under the Massachusetts Environmental Policy

Act (MEPA). Pursuant to a Memorandum of Understanding (MOU) between the Cape Cod Commission and the Executive Office of Environmental Affairs, the applicant elected to participate in a joint Cape Cod Commission/MEPA review process designed to address the concerns of both agencies.

G6. The applicant proposes to phase the project. According to the proposed phasing plan received on 5/11/01, Phase 1 will consist of Retail A and Retail B. Phase 2 will consist of Retail C, the Stop & Shop Supermarket, the wastewater treatment shed and system, the Route 28 improvements, the traffic signal improvements, and the parking lot improvements.

Land Use Findings:

LU1. The proposed project is located within the S & D zone in the town of Barnstable, which is an LCP Certified Growth Center according to the Barnstable Local Comprehensive Plan, which was certified by the Cape Cod Commission in 1998.

LU2. The proposed project consists of the redevelopment of a previously developed strip commercial site, as well as expansion onto undeveloped land. The proposed project is therefore consistent with *MPS 1.1.1, which encourages redevelopment within certified Growth Centers.*

LU3. Extensive revisions to the project's design have ensured that the project is consistent with *MPS 1.1.3, which prohibits the extension or creation of new roadside strip commercial development.*

LU4. The proposed redevelopment project will improve the appearance of an existing strip commercial center. Measures that have been proposed by the applicant include sign control, parking, lighting, landscaping, undergrounding of on-site and off-site utilities, façade renovations, and other site design measures consistent with the Commission's Design Manual, Technical Bulletin #96-001.

LU5. Appropriate redevelopment of existing commercial areas is encouraged by the RPP in areas that have the capacity to sustain the impacts of this additional development in order to accommodate growth while minimizing additional development of land.

Water Resources Findings:

WR1. The Cotuit Landing parcel is partially located within a Wellhead Protection Area to Centerville Osterville Marstons Mills (COMM) Water District wells and a Potential Public Water Supply Area. It is also wholly within the watershed to Prince Cove, which is a portion of the 3-Bay embayment system. The Prince Cove and 3-Bay watersheds are Marine Water Recharge Areas.

WR2. Prince Cove has been identified as having excessive nitrogen loading under the findings of the Commission's Coastal Embayment Project (Eichner, *et al.*, 1998). Water quality problems in the Cove have been confirmed by sampling conducted by Three Bays Preservation, Inc. under the guidance of UMASS, Dartmouth, School of Marine Science and Technology. Developments of Regional Impact within watersheds to coastal embayments where watershed development exceeds identified

nitrogen loading standards or where there are documented water quality problems must maintain or improve existing levels of nitrogen loading (MPS 2.1.1.2.C.2).

WR3. Wastewater flows, lawn areas, and impervious surfaces from existing development on the parcel result in a nitrogen load of 236 kilograms per year (kg/yr) and a nitrogen loading concentration of 3.2 parts per million (ppm).

WR4. The Cotuit Landing project will have wastewater flows of 10,500 gallons per day (gpd). Projects with Title 5 flows greater than 10,000 gpd are required to obtain a state Groundwater Discharge Permit (GWDP) from the Department of Environmental Protection (DEP). The applicant has proposed to use a Zenon wastewater treatment system, subject to approval in a GWDP. Projects with flow requiring a GWDP must meet the sewage treatment facilities minimum performance standards in Section 2.1.2 of the Regional Policy Plan.

WR5. Given the proposed lawn areas and impervious surfaces, the Cotuit Landing project will have a nitrogen load of 277 kg/yr if the wastewater treatment plant discharges effluent with a 10 ppm total nitrogen concentration. If the treatment plant discharges effluent with a 5 ppm total nitrogen concentration, the project nitrogen load will be 205 kg/yr. Projects with similar flows and the same treatment technology as the Cotuit Landing project have been given GWDPs with a total nitrogen concentration limit of 10 ppm. The applicant has stated that they will pursue a 5 ppm total nitrogen concentration limit from DEP in their GWDP.

WR6. The nitrogen loading concentration for the project will be less than the regional nitrogen loading limit of 5 ppm (MPS 2.1.1.1) whether the wastewater plant effluent limit is 5 or 10 ppm total nitrogen.

WR7. In the event that the wastewater treatment plant GWDP has a 10 ppm total nitrogen effluent limit, the nitrogen load from the project will exceed the existing load on the site by 41 kg/yr. Assuming an \$8,000 cost to retrofit a single family residence from a conventional Title 5 system to a denitrifying septic system, 7.9 houses or \$63,404 would be necessary to offset the excess nitrogen load from the Cotuit Landing project.

WR8. The applicant has agreed to pursue expansion of the capacity of the treatment plant and the discharge areas to accommodate Title 5 flows of 21,600 gpd subject to final review of the GWDP by DEP and regardless of the outcome of the effluent total nitrogen concentration limit in the GWDP. The anticipated cost to accommodate the expanded flow capacity would be approximately \$80,000. The cost of constructed excess treatment capacity of 11,100 gpd would be more than the offset cost required to meet MPS 2.1.1.2.C.2. and the excess capacity is considered a benefit because the nitrogen treatment level offered by the treatment plant (10 ppm) would be better than the on-site denitrifying septic systems (19 ppm) assumed in the offset cost calculation in Finding WR7. It is anticipated that future use of the excess capacity would have to involve operation, management, and permitting of the project's Zenon system by the Town of Barnstable.

WR9. Submitted materials show that the wastewater treatment facility MPSs in Section 2.1.2 of the RPP are met, except for MPS 2.1.2.2. MPS 2.1.2.2 requires the effluent plume from treatment facilities to meet a maximum 5 ppm total nitrogen standard at the downgradient property line. If the applicant succeeds in obtaining a 5

ppm total nitrogen discharge limit in their GWDP from DEP, MPS 2.1.2.2 will be met. However, if DEP sets a 10 ppm total nitrogen discharge limit in the GWDP, groundwater modeling has indicated that the effluent will be diluted to 8 ppm at the property boundary. The inability to meet this standard is largely due to the proposed expansion of the effluent discharge capacity to provide the benefit discussed in Finding WR8, the proximity of the southern property line (Route 28) and the direction of groundwater flow.

WR10. Staff review of public water supply records in coordination with the Town of Barnstable, the COMM Water District, and the Cotuit Water District indicate that one potential private well exists approximately 300 feet from Route 28 in the possible flow path from the proposed treatment plant. Public water supply is available to this property. The remainder of the largely residential developed properties in the area are connected to the public water supply system.

WR11. MPS 2.1.2.2 was adopted to ensure the highest level of wastewater treatment for constructed facilities and provide adequate protection for downgradient surface waters or other sensitive receptors. The proposed treatment plant is designed to provide the highest level of wastewater treatment. The expansion of the treatment capacity has the potential to provide an improvement in the water quality in Prince Cove. One potential private well could be impacted by the treatment plant plume, but the GWDP effluent concentrations should be less than or the same as applicable drinking water standards and effluent concentrations should be less than applicable standards by the time the effluent reaches the potential well.

This project requires the use of the flexibility clause. To invoke the flexibility clause, the applicant must demonstrate that the interest protected by MPS 2.1.2.2 can be achieved by an alternate approach including appropriate mitigation. The Commission hereby finds that the proposed treatment plant will not be more detrimental to Prince Cove, the protected resource, than would be allowable under MPS 2.1.2, and that because the proposal meets the intent of MPS 2.1.2.2 and provides a benefit to Prince Cove, it is appropriate to apply the flexibility standard for this MPS.

WR12. The applicant has proposed to locate the wastewater treatment facility and discharge areas outside of the existing Wellhead Protection Area.

WR13. Staff discussions with COMM staff indicate that the location of future potential wells on the existing COMM property should be far enough to the north to avoid significant expansion of the Wellhead Protection Areas boundary to the south. The applicant has agreed to place the wastewater discharge structures in the southern portion of the parcel (according to The Utilities Plan, C-7, dated 11/30/00 and last revised 05/09/01), which should provide an additional buffer for any southern movement of the boundary due to future wells.

WR14. COMM has indicated that the portion of the parcel planned for the development's buildings and that is classified as a Potential Public Water Supply Area is unsuitable for water supply development. Based on information reviewed, the Commission has agreed and MPSs under Section 2.1.1.2.F do not apply to this project.

Natural Resources Findings:

NR1. The project site is located within a Significant Natural Resource Area (SNRA) as identified on the Cape Cod Regional Policy Plan maps due to the presence of unfragmented forest, public water supply wellhead protection area, and potential public water supply wellhead protection area. According to the Natural Resource Inventory (NRI), submitted by the applicant, several site characteristics provide habitat for wildlife, including a highly-productive vernal pool wetland, dominant oak/pine vegetation community, significant shrub layer, and the presence of dead standing trees, or snags.

NR2. As shown on the Layout and Materials Plan dated 11/30/00 and revised 2/20/01, the applicant proposes a buffer between the vernal pool wetland and the northern portion of the development that is 175 feet wide at its narrowest point. This 175-foot buffer is in excess of the minimum 100-foot buffer required by MPS 2.4.1.5, and will likely improve habitat protection for vernal pool species consistent with the requirements of MPS 2.4.1.1. A 350-foot or greater undisturbed buffer to the vernal pool will be preserved to the north and east of the vernal pool on project-owned lands. The 350-foot or greater buffer to the vernal pool is a benefit of the project.

Open Space Findings:

OS1. The 41.09-acre project site is located within a SNRA and contains 2.55-acres of undevelopable area. The RPP requires that 65% of the developable area be permanently protected as open space. The amount of permanently protected open space required under the RPP is 25.05-acres for this project.

OS2. The applicant is proposing to preserve 20.91-acres of on-site upland open space, including 15.48 acres of undisturbed open space to be protected by a conservation restriction meeting the requirements of Massachusetts General Laws Chapter (MGL) 184, Sections 31 through 33 inclusive, and 5.43 acres of landscaped area to be protected by deed restriction. The applicant has proposed that the Barnstable Conservation Commission or other qualified conservation entity will hold the conservation restriction.

OS3. A 6.25-acre parcel, (containing 5.76-acres of developable land), known as the "Geele" parcel, is contiguous to the project site, but is considered off site open space because the parcel was not owned by the applicant when the DRI application was filed. The Geele parcel creates an unfragmented connection to the Centerville-Osterville-Marstons Mills (COMM) Fire District Land to the north, which is not likely to be developed in the future. The proponent proposes to transfer the 6.25-acre Geele parcel to the COMM Water District to be held permanently for aquifer protection.

OS4. The total open space proposed is 26.67-acres of upland (27.85 acres including wetlands), which is 1.62 acres in excess of the RPP requirement.

Air Quality Findings:

AQ1. *MPS 2.6.1.1 requires DRIs to be in compliance with the Massachusetts State Implementation Plan and DEP Air Pollution Control Regulations.* DEP requires that new development offset all pollutant emissions. The applicant provided calculations showing a net reduction in vehicle emissions in the project area resulting from reduced vehicle queues. The applicant has provided adequate documentation that under Build

Conditions, the project would reduce potential air emissions from Existing Conditions and from 2004 No-Build Conditions. In addition, the analysis does not include the 20% reduction of vehicle trips in and out of the site that is required by the RPP. With the implementation of a successful trip reduction plan, the total reduction in air emissions as a result of the proposed roadway reconfiguration will be greater than the analysis indicates. Neither further review nor additional air quality mitigation was required by the Executive Office of Environmental Affairs, MEPA Unit.

Economic Development Findings:

ED1. The Regional Policy Plan's Development Review Policy 3.1.3 identifies businesses that should be encouraged because they provide well-paying, year-round employment. These businesses include "clean, light industry". The supermarket sector, because of its low wages and lack of benefits, has not been considered as integral to the economic upgrading of the Cape. Regional Policy Plan Other Development Review Policy (ODRP) 3.3.1 addresses jobs that would be considered an economic benefit: *It should be considered a regional benefit if a development provides year-round employment, provides basic health and retirement benefits, employs local workers, and pays higher than minimum wage levels. Any financial support for job training/education and/or affordable housing for workers should be considered a benefit.*

ED1. The applicant estimates that the number of full-time employees at the shopping center would increase from 66 to 121 and that part-time employees would increase from 28 to 195.

ED2. The applicant estimates that the average annual salary at the Stop & Shop for the 43 full-time employees would be \$31,200-\$41,600. The applicant does not provide a wage range for part-time employees. Using information from a similar project, the Sandwich Stop & Shop claimed to be paying their 160 part-time employees \$6-12 per hour.

ED3 The applicant stated that full-time employees would receive a benefits package with a "comprehensive" medical package and that "eligible" part time employees would receive benefits including a "basic" medical package. Part-time employees become eligible for the benefits package after three years of service.

ED4. The Cotuit Landing project estimates that 300 construction jobs would be created with one-third going to Cape residents. The Sandwich Stop & Shop project created 250 construction jobs with approximately 31% being filled by Cape Codders. Tradesmen will typically be on-site an average of three (3) to four (4) months with an average pay of \$20 per hour.

ED5. According to the applicant's fiscal analysis, the net annual property tax benefit to the town will be approximately \$100,000.

Transportation Findings:

T1. The expansion and renovation of this site is expected to generate 4,260 (2,130 in/2,130 out) new vehicle trips on an average weekday. After allowing for a 25% "pass-by rate", the project is expected to increase traffic on the adjacent road system as follows:

Average weekday	3,190 trips
Average morning peak hour	70 trips
Average evening peak hour	290 trips
Average Saturday	4,270 trips
Average Saturday peak hour	410 trips

T2. To meet Minimum Performance Standard 4.1.2.1 (20% trip reduction), this project must reduce and/or offset 852 daily vehicle trips. The applicant has submitted a trip reduction program in the Final Environmental Impact Report dated November 2000. The program includes measures to encourage bicycle and pedestrian access to the site, employee ridesharing and local bus service. The trip reduction measures are expected to remove 164 daily vehicle trips. The applicant has proposed to place vacant developable land, in excess of other open space requirements, under a permanent conservation restriction to be held by the Barnstable Conservation Commission or other entity to meet the remaining trip reduction requirements. In addition to preventing additional development on the restricted property, this restriction will also permanently preclude direct access to Route 28 along approximately 1,440 feet of frontage currently controlled by the applicant.

T3. The Cape Cod Commission transportation staff has calculated the potential trip generation of the vacant developable land to be 1,740 average daily trips. Therefore, in combination with the trip reduction measures in the FEIR, the requirements of MPS 4.1.2.1 are exceeded by 1,052 daily vehicle trips. As allowed under Other Development Review Policy 4.1.3.2, the amount in excess of trip reduction requirements may be used to increase traffic thresholds. This results in fewer locations requiring analysis and off-site mitigation to comply with MPS 4.1.1.1. Therefore, the project's study area is reduced to the regional road links and regional intersections on Route 28 between Osterville-West Barnstable Road and approximately 2,000 feet west of the Putnam Avenue intersection.

T4. Access and egress to the site is proposed via the existing signalized intersection on Route 28 at Putnam Avenue along with a new signalized intersection on Route 28 to the west of Putnam Avenue. The signals will be coordinated and meet the requirements of MPS 4.1.1.1 and 4.1.1.6. Based on field observations, the sight distance at the access/egress locations with Route 28 are in compliance with MPS 4.1.1.5.

T5. The applicant has proposed to widen Route 28 starting to the east of Old Post Road and ending to the west of the new signalized site drive. The project will include a four lane cross section separated by a planted center median on a portion of Route 28 that includes the project frontage and extends to Old Post Road. The widening and new traffic signal are required to mitigate year-round impacts, alternatives to road widening are insufficient to mitigate impacts and the widening is not within an historic district and will not cause adverse impacts to historic, scenic or natural resources. The mitigation and traffic signal plan are consistent with MPS 4.1.1.1, and MPS 4.1.1.8 through MPS 4.1.1.12.

T6. *MPS 4.1.1.8 requires that transportation mitigation measures required by Developments of Regional Impact shall be consistent with community character and shall not degrade historic, scenic or natural resources.* The visual impact of the

project's roadway widening and signalization is significant; the project proposal will have negative visual impacts on the character of the area, including significant roadway paving up to 63 feet (five travel lanes plus two 4' paved shoulders), the addition of a second traffic signal and associated hardware, loss of a significant portion of the buffer to a nearby business and reduction of buffer to nearby residences.

T7. To mitigate these impacts, the applicant proposes a boulevard design with a landscaped and maintained median island, landscaping and maintenance of the old intersection at Old Post Road, traditional style traffic signal hardware, architectural concrete paving on the median islands, and undergrounding of the overhead utilities encompassing the distance between and including the two site drives. The proposed package adequately mitigates the impacts of the roadway widening and signalization.

T8. As part of the proposed road reconstruction, MassHighway may require surface detention basins or guardrails. The applicant has stated that based on conversations with MassHighway, it is unlikely that one or more large surface detention basins or guardrails will be required as a result of the roadway widening and signalization, although the applicant was unable to obtain written confirmation of this from MassHighway.

T9. *Other Development Review Policy 4.1.1.24 states that road and intersection widening should include undergrounding of overhead utilities and the removal of utility poles and associated structures, where appropriate.* Existing overhead utility lines along Route 28 adjacent to the site extend for almost the entire site frontage. The presence of above-ground utilities is a visual detriment to the community character of this area. The applicant has proposed to underground the utility lines encompassing the distance between and including the two site drives as shown on plans submitted on April 19, 2001, which is a significant benefit of the project.

T10. A letter dated April 18, 2001 has been received from the NSTAR utility company giving conceptual approval for the undergrounding so long as it is done at the expense of the applicant and NSTAR has final approval of the detailed plans.

T11. Level of service analysis of project impacts indicated that, with the proposed improvements there will be no degradation in traffic flow along Route 28 and through the coordinated traffic signals on Route 28, in compliance with MPS 4.1.1.1.

T12. To further mitigate project impacts and provide for pedestrian amenities, the applicant has committed \$30,000 for sidewalk improvements on Putnam Avenue and/or to advance improvements to the Route 28/Route 149 intersection.

T13. The applicant has agreed to provide a crash/traffic analysis of Route 28/Osterville-West Barnstable Rd. and Route 28/Route 130 approximately two years after the project opens. The analysis will include recommendations for improving traffic flow and safety.

T14. The center median is necessary to mitigate the visual and potential safety impacts of the four lane widening. As well as providing aesthetic improvements, it will control and reduce the locations where left turns can occur.

T15. The combination of the access/egress plan, new traffic signal and restrictions on additional new access/egress locations along the frontage of the property result in compliance with MPS 4.1.1.6 and MPS 4.1.1.17.

T16. Thomas J. Mullen, the town of Barnstable's Director of Public Works, in a letter dated April 24, 2001 has expressed the Town's interest in constructing a sidewalk on the north side of Route 28 between Putnam Avenue and Route 149. There is insufficient right of way to support the proposed road widening, center median paved shoulders and a sidewalk in some areas. The applicant has agreed to pursue a waiver from Massachusetts Highway Department design standards to allow a narrower shoulder so that a sidewalk can be built.

T17. The project as approved with Conditions T1 through T11 will not degrade public safety.

Solid and Hazardous Waste Management Findings:

WM1. *MPS 4.2.2.3 requires that commercial and industrial development and redevelopment that involves the use, treatment, generation, storage or disposal of hazardous wastes or hazardous materials, with the exception of household quantities, shall not be allowed within Wellhead Protection Districts.* According to maps produced in connection with the 1996 Regional Policy Plan (RPP), and based on information and discussions with officials from the Centerville-Osterville-Marstons Mills (COMM) Water District during the course of the project review, the Commission has determined that the Wellhead Protection District boundary delineated at the time this project was reviewed as a Development of Regional Impact is such that a portion of the Retail A building is inside the Wellhead Protection District, but that the Wellhead Protection District boundary will not move further onto the project site as a result of possible further well development on the COMM Water District land. As such, the proposed supermarket and associated wastewater treatment facility are not located in an existing Wellhead Protection District.

WM2. MPS 2.1.1.2.F.2 applies the same standards to Potential Public Water Supply Areas as apply to existing, delineated Wellhead Protection Districts. Along with the information concerning the location of the existing Wellhead Protection District boundary, information from Centerville-Osterville-Marstons Mills Water District also indicated that the project site is not considered a viable future water supply site even though a portion of the site is shown as a Potential Public Water Supply Area on RPP maps.

WM3. The Final Environmental Impact Report stated that "controls" would be placed on the vacant space in Retail A so that quantities of hazardous materials and hazardous waste generated would "be only minor (household) quantities associated with building cleaning."

WM4. *MPS 4.2.2.2 requires that development and redevelopment shall be in compliance with Massachusetts Hazardous Waste Regulations, 310 CMR 30.00.* The applicants provided a general statement during the Development of Regional Impact review stating that building contractors would comport with existing "applicable laws" regarding hazardous waste management.

WM5. *MPS 4.2.2.1 requires that development and redevelopment shall make reasonable efforts to minimize their hazardous waste generation through source*

reduction, reuse, material substitution, employee education and recycling. Through the course of the Development of Regional Impact review, the applicant provided a copy of a survey for asbestos-containing materials. The existing bank occupying part of Building #1 was not part of the asbestos survey because the occupancy would not change as a result of the project.

WM6. *Goal 4.2.1 is to manage solid waste using an integrated solid waste management system that includes waste reduction, recycling, composting, incineration and landfilling, and to divert 30% of municipal solid waste from incinerator and landfill facilities through recycling and composting by 2000, and 40% by 2005.*

WM7. According to the DEIR/DRI, the Stop & Shop Supermarket Company has recycled and diverted over 1 million pounds of white paper from landfills since the institution of the Company's Office Recycling Program. The Stop & Shop Company recycles over 90,000 pounds of protective shrink wrap material each year.

WM8. According to the DEIR/DRI, the Stop & Shop Supermarket Company operates a recycling program for cardboard annually, and encourages customers to return used plastic and paper bags for reuse. In addition, the Company donates to the Nature Conservancy for every bag that is reused.

WM9. According to the DEIR/DRI, the proposed store will have an automated bottle return area that will take all aluminum cans, plastic bottles and glass bottles of the types and brands sold by Stop & Shop and bearing a \$0.05 Massachusetts deposit symbol. In 1995, the Stop & Shop stores redeemed over 175 million empty containers.

WM10. *MPS 4.2.1.2 requires development and redevelopment to allocate adequate storage space for interim storage of recyclable materials.*

WM11. According to the DEIR/DRI, the rear of the supermarket will have two designated compactors and there will be an automatic bottle return area inside the store. Existing buildings will utilize existing docks and dumpster areas to store recyclable material. Smaller tenant/buildings will have storage for recyclable material in the interior space. These storage areas are emptied by workers or cleaning personnel into special containers for collection by a local solid waste disposal firm.

WM12. *MPS 4.2.1.3 requires the applicant to manage construction and demolition waste (i.e. asphalt, brick, concrete, wood, sheetrock, metals) in a manner consistent with the integrated solid waste management system outlined in MPS 4.2.1.1.*

WM13. According to the DEIR/DRI the contractor will be required contractually to recycle demolition and construction debris to the greatest extent possible. Contract specifications will require the Contractor to cut up heavier wood waste for use as fuel in wood burning fireplaces and to shred minor limbs and brush for use as a landscape mulch. Only tree stumps and non-recyclable demolition/construction waste will be disposed of at a landfill. The proponent will require that those wastes be deposited in an approved landfill close to, but off, Cape Cod.

WM14. According to the DEIR/DRI, the contractor will be required to dispose of metal, asphalt, brick and concrete at a permitted bulky waste landfill comparable to the Bourne Integrated Solid Waste Management Facility (ISWMF).

Heritage Preservation/Community Character Findings:

HPCC1. The project is located at the Route 28 intersection with Putnam Avenue. Putnam Avenue is a Barnstable Local Comprehensive Plan-designated scenic road. The project is located in a certified Growth Center according to the Barnstable Local Comprehensive Plan.

HPCC2. The proposed project is not located within an historic district and is not adjacent to individual historic structures. The applicant filed a Project Notification Form with the Massachusetts Historical Commission (MHC) on September 23, 1999. On September 30, 1999 MHC responded that the project is unlikely to affect significant historic or archaeological resources.

HPCC3. *Goal 6.2 of the RPP encourages redevelopment of existing structures as an alternative to new construction and seeks to ensure that future development respects the traditions and character of historic village centers and outlying rural areas so as to protect and improve, where necessary, the visual character of Cape Cod consistent with the Commission's design manual, Technical Bulletin #96-001.* The project involves redevelopment of an existing commercial plaza, as well as expansion onto adjacent undeveloped land. The project's location on Route 28 (a regional roadway) and in a certified Growth Center requires that the design of the facility be compatible and harmonious with surrounding development and traditional Cape Cod architecture.

HPCC4. *MPS 6.2.1 requires that the height and scale of a new building or structure and any addition to an existing building shall be compatible and harmonious with its site and existing surrounding buildings. No new development shall include a single structure which has a footprint greater than 50,000 square feet unless it can be demonstrated through the design of the building and vegetative or other screening methods that the project will not have adverse visual impacts on the surrounding community;*

HPCC5. The view of the project from Route 28 is a primary concern. The applicant explored several site configurations in an effort to identify the one with the least visual impact and the most functional site design. The proposed site plan partially screens the large Stop & Shop building and parking area through landscaping, the arrangement of two "frontage" buildings (Retail D and E), the retention of an existing Retail building C, placement of the bike shelter, and placement of the secondary access off-line with the front of the Stop & Shop building.

HPCC6. The retention of the Retail C building and the placement of the small "frontage" retail buildings (Retail D and E) effectively break the large parking field into two parts and provide a screen of small buildings to reduce views of the Stop & Shop building from the east. An 80 to 90-foot wide wooded buffer is proposed to help screen the development from the west. The scale of the new retail buildings and their proximity to the road is consistent with traditional small scale development patterns and helps define the street edge.

HPCC7. Variation in the front façade of the proposed Stop and Shop building combined with site landscaping and frontage buildings addresses the building's visibility from Route 28 and reduces the negative impacts of the large scale of the building in conformance with the MPS 6.2.1.

Views to the Stop & Shop building, which has a footprint over 50,000 (71,552 sf) are limited by both site design and building design features, such that the size of the building will not be apparent from the surrounding community, consistent with MPS 6.2.1.

HPCC8. MPS 6.2.2 requires that in all cases, where new buildings and additions are proposed, the mass and scale of the building, roof shape, roof pitch, and proportions and relationships between doors and windows shall be harmonious among themselves and consistent with traditional Cape Cod architectural styles.

The proposed Retail D and E buildings are consistent with traditional Cape Cod architectural styles in their scale and incorporation of pitched roofs, and a high level of architectural detail, including true windows throughout the first floors of the buildings. Retail D and E are designed with slightly different forms and incorporate traditional building materials and styles. The roof pitches and the building materials for these buildings are consistent with traditional Cape Cod building styles.

HPCC9. The architectural design of the Stop & Shop Supermarket incorporates traditional Cape forms and materials into a much larger structure. The apparent large massing of the building has been reduced by incorporating projections and setbacks into the façade; the two primary gables which mark the entrances project 6 feet forward of the center building element, and the covered walkways project 15 feet forward of the building wall to either side. In addition, different building materials are used to highlight these changes and to focus attention on smaller components of the building such as the recycling center on the southeast corner of the building, consistent with MPS 6.2.2.

HPCC10. The project includes renovation of existing retail buildings A and B on the site. Elevation drawings listed in Condition G7 for the proposed renovations are consistent with the RPP and the design manual, making the existing retail structures more similar to traditional Cape forms through the use of traditional materials and more variation in the building facades and roof lines than currently exists. The proposed renovations will improve the character of the existing buildings and the existing commercial development. The applicant has requested flexibility from the proposed elevations when renovating the existing buildings to accommodate unexpected structural features that may require changes to the proposed facades.

HPCC11. MPS 6.2.3 requires that all new development shall provide adequate landscaped buffers in order to limit visual impacts on the surrounding community. When new development is proposed adjacent to ...scenic roadways... landscaped buffers shall be provided in order to limit visual impacts on these resources from the new development. Preservation of existing natural vegetation in these buffer areas is preferred; and

MPS 6.2.4 requires that expansion or creation of strip development shall not be permitted. Redevelopment of existing strip development shall provide adequate buffers between parking areas and the street, and significant improvement to interior parking lot landscaping, as well as facade improvements and frontage buildings, as necessary, to improve the visual character of the site.

The applicant has improved interior existing landscaping on the site through the provision of a variety of landscaped islands, as shown on the Landscape Plan, Sheet

C-8, dated 11/30/00, revised 5/15/01. In addition, the project will include a buffer between Route 28 and the Stop & Shop Supermarket that ranges from approximately 80 to 90 feet in width; site plans indicate that existing trees in this buffer will be retained, and it will be heavily supplemented with additional landscaping to provide an adequate visual buffer to Route 28. Between Route 28 and the existing commercial development, existing vegetation will be retained and heavily supplemented with additional landscaping to improve the quality and character of the buffer. The quantity and variety of plantings of various heights within the buffer and parking lot islands will improve the visual character of the site and ensure consistency with MPS 6.2.3 and MPS 6.2.4.

HPCC12. *MPS 6.2.5 and 6.2.6 require the submission of a landscape plan, which addresses both the functional and aesthetic aspects of landscaping and that amenities for pedestrians shall be provided on site by all new development.* The applicant proposes substantial landscaping with plant materials that are suitable to the climate and location of the site. Shade trees of at least 2.5" caliper and larger are proposed along roadways and within parking lots to improve the visual quality of the area.

HPCC13. The applicant has proposed an irrigation system to maintain the on-site landscaped areas and the median island in Route 28. In addition, the applicant has proposed to maintain an area located to the east of Putnam Avenue on Route 28 which is the closed off section of Old Putnam Avenue. The applicant has agreed to provide a two-year maintenance contract to include pruning, watering, mulching, replacement of dead plant materials, fertilization, and pest control for all landscaped areas.

HPCC14. The applicant has met MPS 6.2.5 by providing a sidewalk network within the existing project site. The plan provides a continuous pedestrian connection from the traffic signal at Putnam Avenue/Route 28 to Treeline Drive when the project's other paved surfaces are included. The north/south sidewalk and other sidewalks through the vehicular areas consist of textured bituminous concrete that will be visually and texturally distinct from the dark asphalt parking lot. In addition, the applicant will provide two bike racks, a bicycle shelter and 4 benches on-site.

HPCC15. *MPS 6.2.10 requires that parking be located to the side or rear of the building or commercial complex in order to promote traditional village style design unless such location is completely infeasible.* The majority of the proposed parking is located to the side or rear of the proposed buildings. A small amount of parking is located along Route 28. This parking area is heavily screened from the roadway by existing and supplemental vegetation.

HPCC16. *MPS 6.2.7 requires that exterior lighting in new development or redevelopment shall comply with standards including design, light source, total light cutoff and foot-candle levels defined in the Exterior Lighting Design Standards, Technical Bulletin 95-001; and*

MPS 6.2.8 requires that the installation of billboards, offsite advertising (excepting approved directional signs) and internally lit or flashing signs shall not be permitted.

Detailed signage plans were not submitted during the DRI review process. The Regional Policy Plan and Technical Bulletin 95-001, *DRI Guidelines for Exterior Lighting Design Standards* prohibit internally lit or flashing signs.

HPCC17. Based on the information submitted as part of the Development of Regional Impact Review, specifically the narrative and plans received on March 27, 2001, the selected lighting design conforms to Standards 2.3, 2.4 and 2.6 of Technical Bulletin 95-001. The wall-pack lights proposed also meet the 70 degree beam cutoff requirement of Standard 2.7.

HPCC18. *Technical Bulletin 95-001 Standard 2.5 requires that reflectors and shielding shall provide total cutoff of all light at the property lines of the parcel to be developed.* The Commission recommended that pole-lights located at the entrance driveways and adjacent to Industry Road should be moved further back onto the site parcel, or that they should be eliminated. The applicant stated in an April 12, 2001 submission that they believed the entrance drive lights were needed for safety reasons, however, they also stated that in the event it was determined these pole lights did not meet Standard 2.5, (based on a field check) that they would be brought into compliance.

HPCC19. The Commission expressed concern that the combination of pole-mount and wall-pack lights on the back of the store would cause off-site illumination impacts to residents in the area of Treeline Drive, and recommended that the pole-mounted lights should be eliminated. In an April 12, 2001 submission, the applicant agreed to eliminate the pole lights in this location.

CONCLUSION

Based on the findings above, the Cape Cod Commission hereby concludes:

The benefits of the proposed project outweigh the detriments resulting from the development. This conclusion is supported by the facts that the project is proposed partially as redevelopment and is located in a certified Growth Center in the Town of Barnstable. See Findings LU1 through LU3.

Land Use benefits are provided through Other Development Review Policies (ODRP) for 1.1.5 through 1.1.7. ODRP 1.1.5 states that adequate infrastructure, including water and sewer, should be provided by public and private means in certified growth/activity centers to support appropriate levels of density as determined by towns in their local comprehensive plans. This is addressed by findings WR1 through WR14. The project addresses ODRP 1.1.6 by redevelopment of this site, which will improve the strip commercial characteristics of an existing commercial development. Measures that have been proposed by the applicant include sign control, parking, lighting, landscaping, undergrounding of on-site and off-site utilities, façade renovations, and other site design measures consistent with the Commission's Design Manual. Through redevelopment in an existing commercial area, the project addresses ODRP 1.1.7. A project detriment includes the expansion of the development onto wooded, undeveloped land.

Air Quality benefits are provided through the reduction of vehicle air emissions in the vicinity of the site as documented in Finding AQ1.

With regard to open space, benefits of the project include the provision of a 350-foot or greater buffer to a portion of the vernal pool, the provision of open space along Route 28 which will limit future commercial strip development and additional curb cuts along the roadway, and 1.62 acres of excess open space.

In the area of Water Resources, a major benefit is provided by the provision of over 10,000 gpd of additional capacity at the wastewater treatment plant and the discharge areas. The provision of additional capacity would allow the treatment of wastewater from existing development, which would thereby improve the water quality in Prince Cove. An additional benefit accrues from the removal of a portion of the existing Retail A building from the Zone II.

The provision of jobs through the project provides a minimal benefit, although based upon the RPP's Cape Cod economic development strategy, there is a preference for well-paying businesses, including "clean, light industry". Retail jobs traditionally provide lower wages and limited benefits to part-time employees. However, the project does provide a net annual property tax benefit to the Town of Barnstable, per finding ED5.

A transportation benefit of the project results from the protection of over 1,440 feet of Route 28 frontage from construction of additional driveways along the north side of Route 28. In addition, the improvements to Route 28 include a center median that will restrict left turns, reduce conflict points and improve safety. Due to insufficient right-of-way, the proposed Route 28 widening may preclude the construction of a continuous sidewalk along the widened sections of road, which is a project detriment. See Findings T2, T14 and T16.

The project provides community character benefits as described in ODRP 6.2.14 through 6.2.20. These Development Review Policies include the planting of shade trees along roadways, parking lots planted with shade trees in the interior portions of the lot, landscape materials which are suitable to the climate and location of the site, providing pedestrian amenities, the use of traditional building materials, and exterior lighting as part of the architectural and design concept. An additional significant project benefit is provided through the undergrounding of utility lines along Route 28, and the undergrounding of utility lines at the two site drives. Façade upgrades to two existing buildings provide a benefit.

The project is consistent with the Barnstable Local Comprehensive Plan (LCP) in that it consists of redevelopment within a certified Growth Center, it includes a boulevard-type roadway, and it will reduce traffic impacts and curb cuts along Route 28 by reducing the potential build-out allowed by zoning.

The project requires Site Plan Review approval from the Town of Barnstable, and is consistent with local development by-laws with regard to location, use, building height, design and landscaping requirements. The project is not located within a District of Critical Planning Concern (DCPC), therefore, consistency with DCPC regulations is not applicable.

The project is consistent with the Regional Policy Plan.

The Commission hereby approves with conditions the application of The Stop & Shop Supermarket Company and Cape Cotuit Center, LLC for the proposed Cotuit

Landing Redevelopment and Expansion project as a Development of Regional Impact, provided the following conditions are met:

CONDITIONS

General Conditions:

- G1. This DRI decision is valid for 7 years and local development permits may be issued pursuant hereto for a period of 7 years from the date of the written decision.
- G2. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this decision.
- G3. The applicant shall obtain all state and local permits for the proposed project.
- G4. No development work, as the term "development" is defined in the Act, shall be undertaken until all appeal periods have elapsed or, if such an appeal has been filed, until all judicial proceedings have been completed.
- G5. The applicant shall forward to the Commission, forthwith, copies of any and all permits and approvals issued in relation to this project and issued subsequent to this decision. A copy of final plans approved by the Town of Barnstable Site Plan Review Committee shall be submitted to the Commission upon receipt of local approvals for review by Commission staff to determine their consistency with Section 7 of the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 5/12/97 and as amended from time to time. Modifications made during the Town permitting process that are consistent with this approved decision shall be considered as Minor Modifications #1 and approved by Commission staff.
- G6. The applicant shall provide the Commission with an annual progress report to be submitted on or before the anniversary of the date of this decision. The annual progress report shall describe the status of local development permitting and project construction, including the expected date of commencement of site preparation work. The applicant shall report changes to the annual progress report.
- G7. The proposed Cotuit Landing Redevelopment and Expansion project shall be constructed in accordance with the following final plans:

	Dated	Revised Date
• Layout and Materials Plan, C5	11/30/00	02/20/01
• Grading and Drainage Plan, C6	11/30/00	05/09/01
• Utilities Plan, C7	11/30/00	05/09/01
• Site Electrical Plan, SE-1	11/30/00	05/09/01
• Landscape Plan, C8	11/30/00	05/15/01
• Median Planting Plan, L-1	01/26/01	02/22/01
• Open Space Plan	05/15/01	
• Elevations and Plans:		
Stop & Shop/Retail A, EL1	03/22/01	
Retail B, C, D, E, EL2	04/13/01	
Stop & Shop, EL3	11/23/00	
Retail, EL4	11/23/00	
Stop & Shop, F1	05/15/01	
Wastewater Treatment Shed, 1	03/27/01	

G8. Prior to the issuance of a building permit for any phase of construction, the applicant shall obtain a preliminary Certificate of Compliance from the Commission which states that all conditions in this decision pertaining to issuance of a building permit for such phase have been met. Prior to receiving a permanent or temporary Certificate of Occupancy for any phase of the proposed project, the applicant shall obtain a partial or final Certificate of Compliance from the Cape Cod Commission for such phase. Unless otherwise stated in this decision, the project shall be constructed in accordance with final plans listed elsewhere in this decision and all conditions of this decision relating to a particular phase shall be met prior to issuance of a Certificate of Compliance for such phase of the proposed project. No new building area within a phase shall be open for business to the public until a Certificate of Compliance is received from the Cape Cod Commission for such phase.

G9. The applicant shall notify Commission staff of the intent to seek a preliminary, partial or final Certificate of Compliance at least thirty (30) days prior to the anticipated date of building permit or occupancy permit issuance. Such notification shall include a list of key contact(s) for questions that may arise during the Commission's compliance review. Commission staff shall complete an inspection under this condition within seven (7) business days of such notification and inform the applicant in writing of any deficiencies and corrections needed. The applicant understands that the Commission has no obligation to issue a Certificate of Compliance unless all conditions are complied with or secured consistent with this decision. The applicant agrees to allow Cape Cod Commission staff to enter onto the property which is the subject of this decision for the purpose of determining whether the conditions contained in the decision are met, and at any time in the future to determine continuing compliance with the conditions of this and/or subsequent modification decisions.

G10. The applicant shall demonstrate that a copy of this decision has been provided to the general contractor and all tenants prior to the start of construction.

G11. Written notice shall be provided to the Commission at least thirty (30) days prior to a change in tenancy for the portions of the building known as Building A that are located within the Zone II as shown on the final plan entitled Grading and Drainage Plan, dated 11/30/00, revised 05/09/01.

Water Resources Conditions:

WR1. Title 5 wastewater flows from the Cotuit Landing project shall be limited to 10,500 gpd. Use of additional wastewater treatment capacity on the site shall be approved by the Commission. Total flows shall be limited to 21,600 gpd unless additional flows are approved by the Commission.

WR2. Wastewater flows will be treated in a Zenon treatment facility with a state GWDP. Draft GWDP and GWDP application materials shall be submitted to the Commission for comment following receipt of the draft GWDP from the state DEP. Draft GWDP and GWDP application materials for future renewals of the GWDP shall also be submitted to the Commission in order to allow comment within the DEP draft GWDP review period.

WR3. Effluent total nitrogen concentration in the GWDP shall be no higher than 10 ppm.

WR4. The treatment plant and effluent discharge areas shall be located as shown on the Utilities Plan, C-7, dated 11/30/00 and last revised on 05/09/01.

WR5. All monitoring required under the GWDP shall be submitted to the Commission on an annual basis commencing one year from the date of this decision.

WR6. If the state DEP does not approve the excess treatment and discharge capacity proposed for this project, the applicant shall provide \$63,404 or equivalent nitrogen loading offsets in order to address MPS 2.1.1.2.C.2.

WR7. Any increases in landscaped areas or impervious surfaces shall be approved by the Commission.

WR8. The stormwater system shall be designed and installed as shown on the Drainage and Grading Plan, C-6, dated 11/30/00 and last revised on 05/09/01.

Open Space Conditions:

OS1. Prior to the issuance of a preliminary Certificate of Compliance, the proponent shall provide the Cape Cod Commission with a conservation restriction consistent with MGL Chapter 184, Sections 31 through 33 inclusive, and accompanying plan to be approved by Commission counsel and recorded at the Registry of Deeds or Registry District of the Land Court, thereby permanently protecting the 15.48 upland acres plus .69 wetland acres shown on the plan titled "Cotuit Landing Redevelopment and Expansion, Open Space Plan" dated 5/15/01. The restriction and site plan shall be executed by the applicant prior to the issuance of a preliminary Certificate of Compliance. The conservation restriction shall be recorded, and proof of recording shall be provided to the Commission, prior to the issuance of a partial Certificate of Compliance for Phase 2 (Retail D and E and the Stop & Shop). In the event that the conservation restriction is not recorded at the time the applicant seeks the issuance of a partial Certificate of Compliance for Phase 2, the applicant shall place the sum of \$100,000 in an escrow account subject to an escrow agreement of form and content satisfactory to Commission counsel to be held until the conservation restriction is recorded. No final Certificate of Compliance shall be issued until proof of recording of the conservation restriction is submitted to the Cape Cod Commission.

OS2. OS2. The 6.25-acre Geele parcel, as shown on the plan entitled "Cotuit Landing Redevelopment and Expansion, Open Space Plan" dated 5/15/01, shall be donated to the COMM Water District to be permanently protected for aquifer protection. The deed and site plan shall be approved by Cape Cod Commission Counsel and the deed shall be executed prior to issuance of the preliminary Certificate of Compliance. The deed shall be recorded and proof of recording shall be submitted to the Cape Cod Commission prior to the issuance of a partial Certificate of Compliance for Phase 2, or in the event that no partial Certificate of Compliance for Phase 2 issues, prior to the issuance of the final Certificate of Compliance.

OS3. The proponent shall provide the Commission with a deed restriction to be approved by the Commission Counsel which provides that the on-site open space consisting of 5.43-acres of landscaped area shown on the on the plan entitled "Cotuit

Landing Redevelopment and Expansion, Open Space Plan" dated 5/15/01, shall remain as permanent open space. The approved restriction shall be recorded at the Barnstable Registry of Deeds, and re-recorded by the holder of the deed at thirty years and every twenty years thereafter. The deed restriction shall be executed prior to the issuance of the preliminary Certificate of Compliance. The deed restriction shall be recorded and proof of recording shall be submitted to the Cape Cod Commission prior to the issuance of a final Certificate of Compliance.

OS4. Prior to receipt of a final Certificate of Compliance the proponents shall clearly mark the boundaries of the permanent open space on the parcels of land with surveyed concrete bounds.

Economic Development Conditions:

ED1. Prior to the issuance of a final Certificate of Compliance, the applicant shall provide a report to the Commission regarding the number of Cape Cod construction companies and workers, as well as regular employees, employed as a result of the project. This report shall also include the net increase in jobs by type and the salary ranges for the positions.

Transportation Conditions:

Except where otherwise stated, all of the following must occur prior to the issuance of a partial Certificate of Compliance for Phase 2:

T1. The applicant shall improve the Route 28/Putnam Avenue/Cotuit Landing Plaza Drive signalized intersection as described in the Final Environmental Impact Report (FEIR) dated November 2000 and as revised on final design plans prepared for MassHighway approval. This includes widening the intersection approaches, installation of an actuated signal and improved phasing.

T2. The second full access drive, approximately 620 feet west of Putnam Avenue shall include a signal system that is coordinated with the Route 28/Putnam Avenue signal. The intersection shall be designed as described in the FEIR.

T3. The applicant shall submit 25% and 75% design plans to Commission staff for review of proposed Route 28 transportation improvements. Final design plans (100%) shall be provided to the Cape Cod Commission at least thirty (30) days prior to implementation of the plan for Commission staff approval. Modifications made during the development of the final design plans that are in accordance with the operation characteristics and pedestrian accommodations conceptually planned for during the review process for the project shall be considered as Minor Modifications #1 and approved by Cape Cod Commission staff.

T4. The applicant shall construct a four lane boulevard with planted center median from approximately 580 feet east of the Route 28/Old Post Road intersection to approximately 1,050 feet west of the Route 28/Stop & Shop full access signalized driveway, as described in the FEIR dated November 2000 and as revised on final design plans prepared for MassHighway approval. The applicant shall notify Cape Cod Commission staff when the construction is 95% complete for a site inspection and approval.

T5. To partially address the project's trip reduction requirements (MPS 4.1.2.1) and prior to receiving a final Certificate of Compliance, the applicant shall implement and

maintain a trip reduction program, as specified in the FEIR. This plan includes the following ridesharing, transit, bicyclists and pedestrian measures:

1. assemble information regarding carpooling and its benefits to be distributed to new employees for both Stop & Shop and the proposed retail tenants.
2. designate the employee area where car-pool information will be posted.
3. submit a copy of the notice for the facility newsletter listing interested car-poolers, which will be distributed to each tenant.
4. a guaranteed ride home program, in the case of an emergency for registered ridesharers, shall be provide via a local taxi service.
5. designate two preferential parking spaces for employees that carpool.
6. provide a free lunch for each employee participating in the trip reduction plan (using an alternative mode to work).
7. provide secure bicycle storage areas to accommodate up to 40 bicycles for both employees and patrons.
8. provide on site services to decrease employee midday trip making. The on site services shall include a bank, ATM machine, and prepared foods.

T6. The applicant shall place under permanent conservation restriction, held by the Barnstable Conservation Commission or other entity approved by the Cape Cod Commission, approximately 6.17 acres of the project site that includes approximately 1,440 feet of commercial frontage along Route 28. This land shall be in excess of other open space requirements under the Regional Policy Plan and shall be permanently restricted from having direct access/egress onto Route 28. The conservation restriction and accompanying plan shall be consistent with MGL Chapter 184, Sections 31 through 33 inclusive, shall be approved by Commission counsel and shall be recorded at the Registry of Deeds or Registry District of the Land Court. The conservation restriction shall be subject to the same provisions contained in Condition OS1 of this decision, and may be secured by the same \$100,000 escrow agreement prior to the issuance of a partial Certificate of Compliance for Phase 2.

T7. Prior to the issuance of any partial or final Certificate of Compliance for Phase 1 or Phase 2, the applicant shall make a one-time payment of \$30,000 to Barnstable County/Cape Cod Commission for the purpose of intersection improvements at the Route 28/Route 149 intersection and/or for sidewalks along Putnam Avenue. These funds shall be disbursed to the Town of Barnstable for any purpose related to these projects, including planning, design, construction or land acquisition.

T8. The applicant shall seek a waiver from Massachusetts Highway Department design standards to allow less than four foot shoulders so that a sidewalk may be constructed along Route 28 between Putnam Avenue and Route 149. In the event a waiver is not allowed and a sidewalk is not constructed by the applicant prior to obtaining a final Certificate of Compliance, an additional sum of money in the amount of \$50,000 shall be paid by the applicant to Barnstable County/Cape Cod Commission to be used for pedestrian and or bicycle accessibility and/or safety improvements in the project's study area.

T9. Between 18 and 30 months after issuance of a final Certificate of Compliance, the applicant shall provide a report to the Cape Cod Commission analyzing traffic operations and safety at the intersections of Route 28/Osterville-West Barnstable Road and Route 28/Route 130. The report shall include an analysis of level of service and vehicle crashes for the most recent 36 months and include recommendations, if necessary, to improve traffic flow and safety.

T10. All Route 28 reconstruction shall be completed prior to issuance of a partial Certificate of Compliance for Phase 2 from the Commission.

T11. The applicant shall submit a copy of the Section 61 finding as issued by the Massachusetts Highway Department (MHD) to the Cape Cod Commission within thirty (30) days of receipt.

Solid and Hazardous Waste Management Conditions:

WM1. Prior to issuance of a preliminary Certificate of Compliance by the Commission, the applicant shall provide for Commission review and approval a copy of the restrictions, including but not limited to lease provisions, designed to insure compliance with Minimum Performance Standard 4.2.2.3 for the vacant space in the Retail A building.

WM2. Prior to issuance of a preliminary Certificate of Compliance by the Commission, the applicant shall provide for Commission review and approval a copy of bid specifications, job requirements or other documents to verify that building contractors will comport with the requirements of the Massachusetts Hazardous Waste Regulations, 310 CMR 30.000. Prior to issuance of a final Certificate of Compliance, the applicant shall provide a list of the tenants who have leased space in the building known as Building A as shown on the final plan entitled Grading and Drainage Plan, dated 11/30/00, revised 05/09/01.

WM3. Prior to issuance of a preliminary Certificate of Compliance by the Commission, the applicant shall provide a copy of a survey of the former Friends Market and liquor store buildings for the presence of lead-based paint and PCBs.

WM4. Prior to issuance of a final Certificate of Compliance by the Commission, the applicant shall provide the Commission with documentation that any lead-based paint, lead-based paint coated building components, PCB-containing materials or devices and any asbestos-containing materials generated as a result of building demolition or renovation have been properly disposed of.

WM5. Prior to obtaining preliminary Certificate of Compliance, the proponent shall submit a draft contract for Cape Cod Commission staff approval specifying the disposal method that Contractors shall use to dispose of all asphalt, brick, concrete (ABC), untreated wood, metals and other solid waste generated by demolition and construction activities. These materials shall be managed according to an integrated waste management system, and disposed of at a facility permitted to dispose of construction demolition materials.

WM6. Prior to the issuance of a partial or final Certificate of Compliance, the applicant shall submit floor plans for the new building area indicating the locations of recycling facilities and solid waste disposal containers.

WM7. Adequate equipment and storage space shall be provided to accommodate a recycling program. This shall include single or multiple receptacles in the common areas that are designed to accommodate bottles, cans and plastic and paper grocery bags so that they can be recycled. Prior to the issuance of a final Certificate of Compliance, Commission staff shall complete an inspection of the project to ensure that the receptacles are installed.

WM8. Prior to issuance of a partial or final Certificate of Compliance for Phase II, a project-wide recycling coordinator shall be designated to assist tenant stores in securing the best markets for recyclables, coordinate hauler pickups, educate tenants and employees, particularly custodial staff, to ensure product quality and monitor recycling equipment for needed maintenance.

WM9. Prior to the issuance of a preliminary Certificate of Compliance, a draft management plan for the collection, storage, transportation and disposal of all construction demolition materials at a permitted bulky waste landfill shall be submitted to Cape Cod Commission staff for approval. Prior to the issuance of a final Certificate of Compliance, a final management plan shall be submitted for Cape Cod Commission staff approval.

Heritage Preservation/Community Character Conditions:

HPCC1. Plant materials specified by this decision may be substituted with prior written approval of Commission staff.

HPCC2. The applicant shall construct the Stop & Shop Supermarket, Retail D and Retail E in accordance with the approved elevation drawings. The applicant shall generally renovate existing Retail A and Retail B in accordance with elevation drawings on Sheets EL1 (March 22, 2001) and EL2 (April 13, 2001); however, should unexpected conditions arise during renovation that require redesign of portions of Retail A or Retail B or adjustments to site exterior lighting fixtures, including substitutions of fixture heads, the applicant shall obtain approval from Cape Cod Commission staff prior to the construction consistent with the Commission's policy on Revisions to Approved DRI's. Modifications made during renovation that are in accordance with the approved elevations for Retail A and Retail B shall be considered as Minor Modifications #1 and approved by Commission staff. All buildings shall include true windows throughout the first floors.

HPCC3. The applicant shall landscape the project in accordance with the Landscape Plan, Sheet C-8, issue date 11/30/00, revised 5/15/01, and the Median Planting Plan, Sheet L-1, dated 1/26/01 and revised 2/22/01.

HPCC4. If all required exterior lighting, site work, irrigation, and/or other landscape improvements are not complete at the time a partial Certificate of Compliance for Phase II is sought from the Commission, any work which is incomplete shall be subject to an escrow agreement of form and content satisfactory to Commission counsel. The amount of the escrow agreement shall equal 150% of that portion of the incomplete work, including labor and materials, with the amount approved by Commission staff. The escrow agreement may allow for partial release of escrow funds upon partial completion of work. The escrow agreement shall be payable to the Cape Cod Commission with the work approved by Commission staff prior to release of the escrow funds. Unexpended escrow funds shall be returned to the applicant,

with interest, upon completion of the required work. All site and landscape work shall be completed prior to issuance of a final Certificate of Compliance.

The applicant shall install an irrigation system for all on-site landscaped areas and the Route 28 median islands. The applicant shall provide a revised draft maintenance contract for Cape Cod Commission staff approval prior to obtaining a building permit. After approval by Cape Cod Commission staff, the applicant shall provide a fully executed landscape maintenance contract for two full growing seasons to include irrigation, pruning, guying, mulching, pest management, fertilizing, erosion repair, lawn maintenance, and replacement of dead vegetation, including grass, trees and shrubs prior to the issuance of a partial Certificate of Compliance for Phase 2.

HPCC5. Prior to issuance of a preliminary Certificate of Compliance by the Commission, the applicant shall submit an "as to be installed" exterior lighting plan. This plan shall be used in connection with Condition HPCC6, below and shall conform to the standards and information submission requirements of Technical Bulletin 95-001, including, if necessary, submission of a revised point-to-point foot-candle plan.

HPCC6. Prior to issuance of a final Certificate of Compliance from the Commission, in-the-field verification of light levels shall be conducted by Commission staff to verify conformance with the requirements of the Technical Bulletin 95-001 and MPS 6.2.7. This shall also include verification that installed signage is in conformance with Condition HPCC7, below.

HPCC7. Detailed signage plans shall be submitted for Commission staff approval prior to the issuance of a partial Certificate of Compliance. The installation of billboards, off-site advertising (excepting approved directional signs) and internally lit or flashing signs shall be prohibited. In addition, any pylon or free-standing signs shall be down-lit in conformance with Technical Bulletin 95-001

HPCC8. If MassHighway requires either a surface detention basin or additional guardrails as a result of the Route 28 roadwork, the project shall require a modification in accordance with the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 5/12/97 and as amended from time to time.

HPCC9. Aerial utility lines shall be placed underground at the two site drives and for the distance between the two site drives, at a minimum. Final design plans shall be submitted for staff approval at least 30 days prior to implementation to ensure consistency with Finding T9 and conceptual design plans. The applicant shall provide a report prior to obtaining a final Certificate of Compliance documenting the cost of permitting (if applicable), design and construction for undergrounding the utility lines, as well as any unusual difficulties encountered.

HPCC10. If the utility companies deny the undergrounding of the utility lines as required by this decision, the project shall require a modification in accordance with the Cape Cod Commission Administrative Regulations, Modifications to Approved DRIs, dated 5/12/97 and as amended from time to time.

The Cape Cod Commission hereby approves with conditions the application of The Stop & Shop Supermarket Company and Cape Cotuit Center, LLC as a Development of Regional Impact pursuant to Sections 12 and 13 of the Act, c. 716 of the Acts of 1989, as amended for the proposed Cotuit Landing Redevelopment and Expansion project located in Barnstable, MA.


Frank Shephard, Chairman

6/21/01
Date

Commonwealth of Massachusetts
Barnstable, ss.

Subscribed and sworn to before me this 21st day of June 2001


Name, Notary Public

My commission expires:

